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Thus, the necessity of enacting Senate Bill No. 132, a bill that seeks the restoration of a benefit under the nullified implementing rule of the Labor Code; a bill that aims to protect the welfare of approximately three million unorganized workers and whose collective bargaining agreements do not provide for retirement benefits; a bill that gives life to the constitutional provision under Section 3, Article XIII of the 1987 Constitution, and I quote: "Afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all."

Let me also mention here, Mr. President, that in the last Senate we already approved this bill on Third Reading. Unfortunately, the Senate failed to approve the Bicameral Conference Committee Report for lack of time. This is the reason that this bill has been refiled, and my counterparts in the Lower House assured me that today, they will also be approving this bill.

Thank you, Mr. President.

The President Pro Tempore. Thank you.

The Majority Leader is recognized.

**SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 132**

Senator Romulo. Mr. President, in accordance with our agreement, I move that we defer further consideration of Senate Bill No. 132, under Committee Report No. 4, until later.

The President Pro Tempore. Is there any objection?

Senator Herrera. Mr. President, I have no objection as long as we will be able to take this up either late this afternoon or tomorrow.

The President Pro Tempore. All right, the consideration of Senate Bill No. 132 is suspended.

**BILL ON SECOND READING
Senate Bill No. 695 — Creating the Department of Energy**

Senator Romulo. Mr. President, I move that we consider Senate Bill No. 695, as reported out under Committee Report No. 4.

The President Pro Tempore. Consideration of Senate Bill No. 695 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. 695, entitled

AN ACT CREATING THE DEPARTMENT OF ENERGY, DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES.

The following is the full text of Senate Bill No. 695:

AN ACT CREATING THE DEPARTMENT OF ENERGY, DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES

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

CHAPTER I

GENERAL PROVISIONS

SECTION 1. Declaration of Policy. — It is hereby declared the policy of the State to ensure the integrated and comprehensive exploration, development, management, sustainable use, renewal and conservation of the country's energy resources, and to this end rationalize and coordinate the various energy programs of the government toward self-sufficiency and productivity to keep pace with the country's growth and economic development.

SEC. 2. Definition of Terms.

a) *Department* — shall mean Department of Energy;

b) *Energy Projects* — shall mean all activities or projects initiated, planned, coordinate, supervised, encouraged and regulated by the Department and its attached agencies, corporations and other instrumentalities relative to the exploration, extraction, production, importation-exportation, processing, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of all forms of energy products and resources; and

c) *Board* — shall mean the Energy Regulatory Board.

SEC. 3. Department of Energy. — To carry out the abovedeclared policy, there is hereby created the Department of Energy, hereinafter referred to as the Department, which shall integrate, rationalize, supervise and control all activities and programs of government relating to energy exploration, development, utilization, and conservation.

SEC. 4. Powers and Functions. — The Department shall have the following powers and functions:

(1) Formulate policies for the planning and implementation of a comprehensive program for the supply and use of energy which is integrated with the country's economic development programs, and provide a mechanism for the integration, rationalization and coordination of the various energy programs of the Department;

(2) Develop and update the Philippine Energy Program which shall provide for an integrated and comprehensive exploration, development, utilization and conservation of energy resources. Said program shall be formulated within six (6) months from the effectivity of this Act and shall be submitted to Congress within ten (10) days from its completion and annually thereafter;

(3) Establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of energy resources from fossil fuels such as petroleum, coal, natural gas and liquids, nuclear fuel resources, and geothermal resources, to existing and potential forms of nonconventional energy;

(4) Plan, implement, coordinate and supervise all government activities; and encourage, guide and, whenever necessary, regulate private sector activities relative to the exploration, development, extraction, production, importation, exportation, processing, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of all forms of energy products and resources such as crude oil and petroleum products, coal and coal-derived fuels, natural gas and gas liquids, geothermal resources, nuclear fuels, electricity, and nonconventional energy resources, including the manufacturing and distribution of energy devices and equipment. *Provided*, That the Department shall endeavor to provide for an environment conducive to free and active private sector participation in all energy activities;

(5) Assess requirements of, determine priorities for, provide direction to, and disseminate information resulting from energy research and development programs for the optimal development of various forms of energy production and utilization technologies;

(6) Formulate and implement programs for the efficient use of energy in all energy-consuming sectors of the economy;

(7) Formulate and implement a program for the accelerated development of nonconventional energy systems and the promotion and commercialization of its applications;

(8) Formulate such rules and regulations as may be necessary to implement the objectives of this Act; and

(9) Exercise such other powers as may be necessary or incidental to attain the objectives of this Act.

CHAPTER II

THE DEPARTMENT PROPER

SEC. 5. *Composition*. — The Department proper shall be composed of the Office of the Secretary and the Offices of the Undersecretaries and Assistant Secretaries.

SEC. 6. *Office of the Secretary*. — The Office of the Secretary shall consist of the Secretary who shall be appointed

by the President, subject to confirmation by the Commission on Appointments, and his immediate staff.

SEC. 7. *The Secretary*. — The Secretary shall have the following functions:

(1) Establish policies and standards for the effective or efficient and economical operation of the Department in accordance with the programs of the government;

(2) Exercise direct supervision and control over all functions, activities, heads of agencies, corporations, instrumentalities, officers, managers and personnel of the Department, its attached agencies, corporations and instrumentalities that are herein so attached or absorbed or which may thereafter be so provided for by legislative or executive act;

(3) Create regional offices as may be necessary; and

(4) Perform such other functions as may be provided by law.

SEC. 8. *The Undersecretaries*. — The Secretary shall be assisted by two (2) Undersecretaries who shall be appointed by the President upon recommendation of the Secretary. They shall have the powers and functions as provided for in Section 10, Chapter 2, Book IV of the Administrative Code of 1987.

SEC. 9. *Assistant Secretaries*. — The Secretary shall also be assisted by two (2) Assistant Secretaries who shall be appointed by the President upon the recommendation of the Secretary.

(1) The Assistant Secretary for Energy Policy, Program Planning and Monitoring — The Assistant Secretary for Energy Policy, Program Planning and Monitoring, which shall consist of the Energy Supply Development Division, The Energy Demand Management Division and the Policy and Program Integration Division, shall have the following duties and responsibilities:

(a) Develop and update an integrated energy plan for the short, medium, and long-term periods to provide a comprehensive assessment on the demand scenarios and supply options as well as the impacts of energy policies on the economy and environment;

(b) Develop and maintain a centralized, comprehensive, and unified Data and Information program to ensure the efficient collection, evaluation, analysis and dissemination of data and information on reserves of various energy resources, production, demand, development technology and related economic and statistical information which are required for policy formulation, program planning and implementation;

(c) Supervise, coordinate and integrate the formulation, monitoring and review of programs and plans for

energy supply development, such as power development, local energy resource development and production, and energy importation;

- (d) Regularly review, and analyze past and current patterns of energy consumption vis-a-vis growth and development performance of the country's various economic sectors to evaluate current and foreseeable trends in energy demand, and conduct energy supply-demand balancing studies to define energy supply and utilization strategies, estimate the resources required, and assess the energy program's economic, environmental, social and political impact;
- (e) Assure the incorporation of national environmental goals in the formulation and implementation of energy programs, and advance the goals of restoring, protecting, and enhancing environmental quality, and assuring public health and safety; and
- (f) Conduct studies on international energy issues that have a direct impact on supply and utilization of energy and provide technical advice on international negotiations involving energy resources and technologies.

(2) The Office of the Assistant Secretary for Energy Staff Support Services shall be composed of the Legal Counsel and the Financial and Management Services.

- (a) The Office of the Legal Counsel, which shall consist of the Litigation and Counseling Division, shall be responsible for providing legal advice and services on all policies, programs, and operational matters of the Department. It shall provide legal counseling services in cases where the Department is a party and shall also handle administrative cases against any personnel of the Department and submit recommendations pertaining to them; and
- (b) The Financial and Management Services, which shall consist of the Human Resource Management Division, General Services Division and the Financial Management Division, shall be responsible for providing the Department with services relating to personnel information, records, supplies and equipment, collection and disbursements, security and custodial works. It shall also be responsible for providing the Department with staff advice and assistance on budgetary, financial, and management improvement matters.

SEC. 10. *The Department shall have the following bureaus:*

(1) *Energy Resource Development Bureau.* - The Energy Resource Development Bureau, which shall consist

of the Oil and Gas Division, Geothermal Division, Coal and Uranium Division, Compliance Division and the Cartography Section, shall have the following functions:

- (a) Formulate and implement policies to develop and increase domestic supply of local energy resources like fossil fuels, nuclear fuels and geothermal resources;
- (b) Formulate, implement, monitor and regularly review sectoral programs and plans relative to the exploration, development and extraction of local energy resources;
- (c) Conduct energy research and studies in support of the aforementioned activities;
- (d) Provide consultative training and advisory services to practitioners and institutions in the areas of regulated activities; and
- (e) Formulate, implement and enforce financial and fiscal policies, rules, guidelines and requirements relative to the operations of the service contractors.

(2) *Energy Utilization Management Bureau.* — The Energy Utilization Management Bureau, which shall consist of the Energy Efficiency Program Division, Conventional Energy Program Division, Nonconventional Energy Program Division, Fuel and Appliance Testing Laboratory and the Siting and Environmental Protection, shall have the following functions:

- (a) Formulate and implement policies for the efficient and economical transformation, conversion, processing, refining, marketing, distribution, transportation and storage of petroleum, coal, natural gas, geothermal and other nonconventional energy resources, and ensure their efficient and judicious utilization;
- (b) Monitor sectoral energy consumption and conduct energy audits, technical training, energy management advisory services, and technology application projects on efficient energy utilization;
- (c) Develop, promote and commercialize applications of biomass, solar, small hydro, wind, wood and charcoal and other nonconventional energy systems, including new and more efficient and economical transformation, conversion, processing, refining, marketing, distribution, transportation and storage technologies for conventional energy resources;
- (d) Formulate, implement, monitor and regularly review an integrated rural energy program to effectively address the needs of rural development programs;

- (e) Provide information on energy technology and develop middle and long-term energy technology development strategies in cooperation with the Department of Science and Technology;
- (f) Monitor implementation of energy projects in coordination with the Department of Environment and Natural Resources to ensure compliance with prescribed environmental standards; and
- (g) Recommend appropriate courses of action to resolve major issues which may impede energy projects siting or result in adverse environmental impact.

(3) *Energy Industry Administration Bureau.* - The Energy Industry Administration Bureau, which shall consist of the Resource Supply Administration Division and the Electricity Supply Administration Division, shall have the following functions:

- (a) Formulate, recommend and monitor the implementation of regulatory policies to encourage and guide the operations of both government and private entities involved in energy resource supply activities such as independent power production, electricity distribution, as well as the importation, exportation, stockpiling, storage, shipping, transportation, refinement, processing, marketing and distribution of all forms of energy and energy products such as crude oil, petroleum products, natural gas, coal and coal-derived fuels, uranium and other nuclear fuels, geothermal resources, hydro systems and electricity generated from the abovementioned energy resources;
- (b) Draw up plans to cope with contingencies of energy supply interruptions; and
- (c) Formulate, implement and enforce financial and fiscal policies, rules, guidelines and requirements relative to the operations of entities involved in the supply of energy resources such as oil companies, petroleum product dealers, coal importing and distributing companies, natural gas distributing companies, independent power producers and all other entities involved in conventional energy supply activities.

CHAPTER III

ATTACHED AGENCIES AND CORPORATIONS

SEC. 11. *Attached Agencies and Corporations.* — The Philippine National Oil Company (PNOC), the National Power Corporation (NPC) and the National Electrification Administration (NEA) are hereby placed under the administrative supervision of the Department for policy and program coordination but shall continue to perform their

respective functions insofar as they are not inconsistent with the provisions of this Act. The Department Secretary shall, in a concurrent capacity, be ex officio chairman of the respective boards of said agencies/corporations.

The Secretary may reorganize, revamp and recommend the members of the Board of Directors of the PNOC, NPC and NEA who shall be appointed by the President.

REGULATORY BOARDS, COMMISSIONS AND COUNCILS

SEC. 12. *Energy Regulatory Board.* - The quasi-judicial powers and regulatory functions with respect to energy pricing and regulations, except electric cooperatives which shall continue to be under the regulatory and supervisory authority of the National Electrification Administration, shall be exercised through the Energy Regulatory Board, hereinafter referred to as the Board. The Board shall continue to perform its respective functions, as expressed in its respective charter and other laws, insofar, as they are not inconsistent with the provisions of this Act.

The Chairman and Members of the Board shall be appointed by the President upon the recommendation of the Secretary.

The Secretary shall exercise administrative supervision over the Board; but the decisions of the Board shall be appealable to the Supreme Court.

SEC. 13. *Council of Energy Advisers.* — A Council of Energy Advisers, consisting of five (5) members, with balanced representation from the major sectors of private industry shall advise the President of the overall energy program, especially on private sector initiatives and proposals.

The President shall convene the council within thirty (30) days upon approval of this Act.

SEC. 14. *Membership in the NEDA Board.* — The Secretary shall be a member of the NEDA Board. He shall also be a member of the Committee on Infrastructure (INFRACOM).

SEC. 15. In the formulation of implementing rules and regulations for the financing, construction and operation and maintenance of infrastructure projects by the private sector, otherwise known as Republic Act No. 6957, the BOT Law, the Secretary shall be a member of the body authorized to formulate and prescribe the necessary guidelines.

CHAPTER IV

TRANSITORY PROVISIONS

SEC. 16. *Abolition of Agencies.* — The Office of Energy Affairs and the Energy Coordinating Council shall be abolished pursuant to the provisions of this Act.

SEC. 17. *Transfer of Powers and Functions.* — The powers and functions of the Energy Coordinating Council and the Office of Energy Affairs are hereby transferred to the Department.

The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property and such personnel as may be necessary.

SEC. 18. *Transfer of Rights, Assets and Liabilities.* — The Department shall, by virtue of this Act, succeed to all rights and assume all the liabilities of the Office of Energy Affairs, the Energy Coordinating Council and all other agencies, or government units whose functions and powers have been transferred to the Department, and all their funds, records, property, assets, equipment, and such personnel as necessary, including unexpended appropriations and/or allocations. All contracts and liabilities of said offices, agencies and government units are hereby transferred to and assumed by the Department and shall be acted upon in accordance with the Auditing Code and other pertinent laws, rules and regulations; *Provided*, That the officers and employees of the said offices, agencies and government units shall continue in a holdover capacity until such time as the new officers and employees of the Department shall have been duly appointed pursuant to the provisions of this Act.

SEC. 19. *Structure and Staffing Pattern.* — The organizational framework and staffing pattern of the Department shall be prescribed and approved by the Secretary within sixty (60) days after the approval of this Act and the authorized positions created shall be filled by regular appointments by the President or the Secretary as the case may be; *Provided*, That in the filing of positions created, preference shall be given to the personnel of the Office of Energy Affairs and the Energy Coordinating Council; *Provided, however*, That such individuals are, by demonstrated ability, background, training, or experience, especially qualified to assess fairly the needs and concerns of all interests affected by the Philippine energy policies.

SEC. 20. *Separation from Service.* — Employees separated from the service as a result of this reorganization shall, within one (1) year from their separation from the service, receive the retirement benefits to which they are entitled under existing laws, rules and regulations.

CHAPTER V

APPROPRIATIONS

SEC. 21. *Appropriations.* — In the implementation of this Act, the initial appropriations shall be from the balance of the OEA funds and such other amounts as the President of the Philippines may allocate from other sources. Thereafter, such sums as may be needed for the operation and maintenance of the Department shall be included in the annual General Appropriations Act.

CHAPTER VI

MISCELLANEOUS PROVISIONS

SEC. 22. *Disclosure and Divestment of Financial Interest.* — Before assumption of office, the Secretary of the Department, the Undersecretaries, and Assistant Secretaries shall submit to the Civil Service Commission a list of all companies, partnerships or business enterprises, including nonprofit organizations, with which they or any immediate member of their families within the second degree of consanguinity or affinity, has any form of financial interest or employment relationship, including consultancy; *Provided, however*, That all other forms of employment relationship held by the heads of the Department shall be immediately terminated upon assumption of office.

Within thirty (30) days thereafter, complete divestment of financial interests in any institution, firm or company which fall under the supervisory or regulatory jurisdiction of the Department shall be made; *Provided, however*, That in cases where confirmation of appointments by the Commission on Appointments is required, the divestment mandated herein shall be complied within thirty (30) days after such confirmation.

The divestment, provided in the preceding paragraph shall likewise apply to the members of the immediate family within the second degree of consanguinity having interest in any institution or activity which falls under the regulatory jurisdiction or supervision of the Department and the agencies attached.

SEC. 23. *Repealing Clause.* — All laws, presidential decrees, executive orders, rules and regulations or parts thereof, inconsistent with the provisions of this Act, are hereby repealed or modified accordingly.

SEC. 24. *Separability Clause.* — If for any reason, any section or provision of this Act shall be held unconstitutional or invalid, the other sections or provisions of this Act shall not be affected thereby.

SEC. 25. *Effectivity.* — This Act shall take effect upon its approval.

Senator Romulo. Mr. President, with the consent of our Colleagues, I ask that we recognize the Sponsors of the bill, first, Senator Alvarez, and then thereafter the principal Author of the bill, Senator Osmeña.

Mr. President, I ask that we recognize Senator Alvarez, the Sponsor of the bill.

The President Pro Tempore. The distinguished Gentleman from Isabela is recognized to sponsor the bill.

SPONSORSHIP SPEECH OF SENATOR ALVAREZ

Senator Alvarez. Mr. President, the dark and gloomy problem of our power and electric energy delivery system is already of public knowledge to this Chamber, and we will not belabor that point.

In response to this, the Members of the Senate and four of us have proposed the creation of a Department of Energy. Malacañang has come forward with its own proposal, and we have crafted in the Committee a substitute measure incorporating the salient points of the Malacañang proposal, which was certified to this Chamber just this afternoon, and the different proposed bills of the other Senators.

This bill will consolidate the decision-making on all questions of energy exploration, exploitation, and utilization. It will bring under the wings of the Department of Energy the different attached agencies. The National Power Corporation, the National Electrification Administration, and the Philippine National Oil Commission.

It will seek to remedy, Mr. President, the disarray in the decision-making of the energy sector by bringing under the authority of the Secretary of the Department of Energy a consolidation of decision. The Secretary will have, not only the authority to review, under this proposed bill, the decision of the attached agencies, but also to set aside the decision and to consider recommending, by way of reorganizing or revamp of the board of directors of the different attached agencies, in order to enable him to have a fuller impact in the supervision and control of these different attached agencies.

What we seek to be able to accomplish in this bill, Mr. President, is a rationalization in the decision-making process of the energy problem. We will be able to avoid the current problem of fragmentation of decision which, in the process, will cause a disarray in implementing programs that focused on power and energy production and utilization. The narrow confines of decision-making of the PNOC and the NPC will then be avoided.

What happened is that in the past, the decision-making made by these two separate entities have come into collusion. PNOC, which is supposed to open up energy resources, have always asked the question which relates to the basic and narrow interest of that corporation on how best it can serve its returns on investment. And, naturally, the bigger goals of power and energy reproduction have not been served well.

Under this proposed Department of Energy, the consolidation will be achieved and the bigger national interest will be served under the wings of reorganization of this Department.

Mr. President, one other feature of this proposed legislation is the direction towards deregulation. While it is true that for a period of time, which we consider the period of instability, we will be consolidating emergency authority and power under the wings of the Department, however, we contemplate that in due time, the Department will begin to devolve its authority when appropriate, so that the deregulation process will bring about market-oriented decision-making.

We have proposed to create a board of advisers which will represent the different sectors of the business or private enterprise so that, in due time, this body will make the appropriate recommendation when the devolution of power of this Department must be undertaken through the President.

Mr. President, we are distributing an enumeration of the basic structure, and we hope that the Chamber will expeditiously consider this measure.

The President Pro Tempore. The distinguished Gentleman from Aurora, Senator Angara, is recognized; then Senator Mercado; then Senator Roco, then the Minority Leader.

Senator Angara. Mr. President, can I ask for a one-minute suspension because I do not have a copy of the committee report?

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may we have a suspension of the session for two minutes.

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

It was 4:04 p.m.

RESUMPTION OF THE SESSION

At 4:06 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Romulo. Mr. President, I ask that Senator Angara be recognized for the interpellation.

The President Pro Tempore. The Gentleman from Aurora is recognized.

Senator Angara. Thank you, Mr. President.

Mr. President, let me congratulate my distinguished Colleague and seatmate for this initiative. But at the outset, let me state

immediately my position. I am in favor of establishing a Department of Energy to bring direction to the energy development program of government, but I disagree with the statement of purpose and functions enumerated under this bill.

Let me just ask first what is the conception of the Gentleman of the position of Energy Secretary under this substitute bill.

Senator Alvarez. If the distinguished Gentleman is referring to the nature of the power that the Secretary may exercise, then the Secretary, under this bill as proposed, will have not only a power of supervision but also of control over the attached agencies, which are the vital structures that will have the crucial decisive or decision-making authority on the energy program and implementation.

Senator Angara. Am I then correct in saying, Mr. President, that what the distinguished Gentleman is going to establish here is an all-powerful department that will control all activities and programs regarding energy, and will not only supervise but control the existing energy organizations, like PNOC, NAPOCOR, National Electrification Administration, and Energy Regulatory Board?

Senator Alvarez. Mr. President, the attached agencies will not exactly be under the complete control and supervision of the Secretary. The influence of the Secretary will be on program definition and program implementation. And on the Energy Regulatory Board, this will remain as a quasi-judicial and independent body. Its decisions on pricing, for instance, may only be appealable to the Supreme Court.

Senator Angara. I will go back to that later on, Mr. President. But, am I correct in interpreting Section 3, for example, that the Department of Energy shall control all activities and programs regarding energy in this country, as stated under Section 3; and under Section 4, subparagraph 4, the Secretary will also regulate the private sector activities regarding exploration, development, extraction, production, exportation, processing, marketing, et cetera? In other words, all aspects of energy activity in this country will be under the control and regulation of the Secretary of Energy.

Senator Alvarez. Mr. President, perhaps, the section that the Gentleman is reading should be read in conjunction with Section 11. While he will have supervening authority in terms of program and will have a review power as we will, later on, propose over program, he does not have the absolute power of control over implementation.

Senator Angara. The statement of powers and function, Mr. President, and the very definition of the office says so that he has control and he regulates, whether governmental or private sector

activity, any activity that is related at all to energy. That is so stated under Section 3 and Section 4. And even without reference to Section 11, that seems to be the import of these two provisions. My point is, since this is an administration certified bill, is not this government committed to a regime of deregulation and privatization?

Senator Alvarez. That is right, Mr. President, and so is this Representation.

Senator Angara. I am glad that the Gentleman said that. Because this bill is, on the contrary, a classic case of centralizing power again in one office which I thought we are already forswearing. And here we are, creating a structure, a bureaucracy that will gather up all the powers of existing energy organizations, place it under one man and even placing the Energy Regulatory Board under his administrative supervision. Is that really our intent here, Mr. President?

Senator Alvarez. Mr. President, in the long term, that is not our intent. We expect this Department to usher in a period of deregulation. But at this point in time, all opinions from the private and the public sectors point to the fact that there is a disarray, there is an instability in energy exploration, supply and utilization. That to rationalize it, at this point in time and for a certain period of time until it should have stabilized, is the utmost demand of public service administration. So, when that point in time shall have been achieved and energy exploration, utilization and the management of the whole program will have stabilized, the mandate of this department will be to devote power into the market, to usher in deregulation.

And for this reason, we have introduced here a provision which creates a Board of Energy Advisers of the private sector which will advise the President of the propitious time when this devolution must take place in a paced manner, in an orderly systematic procedure.

Senator Angara. Mr. President, I can easily agree with the Gentleman's presentation except that the text of this bill does not reflect that intent. What we are writing here is going to be permanent, and if the intent really is that the all-powerful Secretary is only an interim measure while there is an energy crisis, then we ought to write that intent into the law. Because as the Gentleman reads it now, there is no such intent reflected in the language.

Senator Alvarez. Mr. President, we had to rush this copy because we wanted Malacañang to give us the certification. However, this Representation will introduce the appropriate alterations in order to fine tune this proposal.

Senator Angara. Going to what we both agree to be the future regime in energy — and that is one of competition and

privatization — does not the Gentleman agree that there are certain areas in energy development that ought already to be privatized? I will leave out pricing in the meantime.

Does not the Gentleman agree, for instance, that power generation ought not to be a monopoly anymore of the government or the National Power Corporation?

Senator Alvarez. Yes, Mr. President. As a matter of fact, Executive Order No. 250 already allows participation of the private sector. In the fast-track program, to be able to provide the needed shortfall, we have already allowed for BTU. As a matter of fact, 815 megawatts or thereabouts minus 310 for a period of nine months will be provided by the private sector.

Senator Angara. That is true, Mr. President. But I am talking of deregulatory requirements. We still have to get a license from the NPC to be able to participate in this power generation.

What I am saying is, maybe, if we do not require anymore prior licensing and allow anyone with capital and technology to generate power in this country — meaning electricity — then we will be better off. That is one aspect of deregulation I am trying to bring out, Mr. President.

Another aspect is importation of crude. Right now, importation of crude is a government monopoly. I can understand the government monopoly when foreign exchange is controlled. But now that we have foreign currency freedom, I do not see anymore the prior licensing of importation of crude. Does not the Gentleman agree that that is also a good subject of deregulation?

Senator Alvarez. I do agree with the Gentleman, Mr. President. However, on power generation, it is important that even as we allow the private sector to participate and may fully generate additional power in the future, it is also important that we have some reserved authority on the part of the public sector.

The problem here is not just power or any kind of power or economically feasible power. But we have to determine the energy mix, Mr. President. There is a mandate here — we will introduce it at some point — that we should encourage environmentally friendly source of energy, indigenous source of energy, nonconventional sources of energy which is solar and wind energy.

The mix of power is crucial on the issue of energy policy. Can we allow, for instance, in the coming two years that all power plants be coal-powered, coal-fed? Or are we going to allow oil-fed generators? Are we going to encourage more investments in geothermal power?

The residual power is to determine what is the mix, Mr. President, what percentage of hydro should be allowed to grow, what percentage of geothermal should be allowed to grow so that we will have the proportion that is most conceived to be advantageous to a national policy as defined by the public sector.

That may be the only reason or that could be the only justification why the public sector must have the residual power to decide even if the private sector should be the primary source of energy generation. That may be the only reason why the public sector must exercise the power of determining which private energy resource may be developed by the private sector.

Senator Angara. Mr. President, I am not disagreeing with the Gentleman on that point. In fact, that can be the role assigned to this department — evolving a national energy plan containing the mix of energy sources as well as the capacity.

What I am referring to, Mr. President, is, right now, if I were MERALCO, for instance, and I can generate electricity at P1.80 cheaper than what NAPOCOR is generating, I cannot simply just go and generate electricity. I have to go to NAPOCOR and get its prior permission. That is the aspect I am pointing out, Mr. President. That we must now remove all this prior licensing because, precisely, we want to invite the private sector with capital and technology to add to our electricity supply.

What the Gentleman stated about the mix of hydro, dendro crude, et cetera, those matters go into a national energy plan. I would like to see that this department or this Energy Secretary will just go into that macro planning, rather than become a regulator of every activity in this country.

Can I move on to another matter that is ripe for privatization, Mr. President?

Senator Alvarez. Mr. President.

The President Pro Tempore. Yes.

Senator Alvarez. May I comment on the Gentleman's observation?

While my sympathies will be for fuller deregulation, unless the Gentleman is able to make some recommendations during the period of amendments on how the government or the public sector can determine the appropriate energy mix and make the appropriate decisions in making that macro decision or in shaping up the Philippine Energy Program, and unless we have some other mechanism other than the licensing authority, then I believe, Mr. President, that this residual power — the licensing before any private enterprise can undertake energy generation — will be the last vital cog to regulate energy production.

Senator Angara. As I said, Mr. President, it is going to be quite simple. We just simply say that the Department Secretary shall be in charge of drafting a national energy plan, detailing the mix of energy resources, and ensuring that the environment is adequately protected in the process.

I think that should be easy to do. But that is not really our disagreement, Mr. President. Our disagreement is in the conception of the office.

For instance, Mr. President, are we not ready now to deregulate pricing of petroleum products? There is no more reason, Mr. President, to continue regulating the price of oil products because, as I said, there is already no control over foreign exchange. Before, we want to control petroleum products because we also regulated the dollars that we use to import crude oil. But now that we deregulated foreign exchange, I do not see why we should continue to regulate the price of oil.

I know the price of oil is a politically sensitive matter. But does the Gentleman agree, Mr. President, that in the long run, perhaps, there would be more efficient utilization of electricity if we let the pricing to be deregulated rather than regulated artificially, right now?

Senator Alvarez. I do believe, Mr. President, that the market is a better mechanism for governing the distribution of scarce resources. So that while scarce foreign exchange....

Senator Angara. I concede, Mr. President, that there are certain areas in energy that ought to be left to government because the private sector, perhaps, may not want to go there, either because it is unprofitable or it requires massive financing.

For instance, areas that MERALCO or any other company would not want to cover would be the rural areas. They would not want to electrify the rural areas because, for one, the consumers might not be able to pay as we are now witnessing in some of these jurisdictions electric cooperatives are servicing. They are going to lose their shirts servicing those areas. Let us say, in geothermal exploration, perhaps, it requires so much capital that a domestic company would not want to go into it right now, so we want the government to trailblaze in those areas.

So I concede, Mr. President, that in those areas where government's participation and involvement are still needed, then we must not deregulate. We must give that to the jurisdiction of the Secretary of Energy. But, in all other aspects of energy development, we must now create an atmosphere of competition and privatization; because only by inviting, by creating an atmosphere, by creating incentives for the private sector to come in, can we bring in the resources available to the private sector. We can bring in the efficiency that only the private sector can

provide. Does the distinguished Gentleman not agree, Mr. President?

Senator Alvarez. I agree with the distinguished Senator, Mr. President. As a matter of fact, we have incorporated this as a mandate of the proposed Department of Energy.

Under Section 4, there is a proviso here which says that the department shall endeavor to provide an environment conducive to free and active private sector participation in all energy activities. So that even as we create this department, the underlying principle whereby it must exercise its functions will be to open up in those areas where the market forces could really be harnessed for the general interest.

Senator Angara. But my quarrel with that proviso, Mr. President, is that it is only a proviso, because the text before that clearly indicates the overall control and supervision and regulation of all energy activities. If what the Gentleman said should be the rule, then we should make that the rule and then make this government control as an exception rather than what is presently found here in this bill.

Senator Alvarez. Yes, Mr. President. As a matter of fact, we will be introducing a number of amendments which will clarify these points that the Gentleman has raised.

Senator Angara. Even under Section 4, paragraph 3, Mr. President, the Secretary or the department may administer directly programs for marketing and distribution. Does not the Gentleman agree that it is time that we again privatize and deregulate marketing and distribution in this country? Does not the Gentleman see that it does not make sense for a gasoline operator to get prior license just to open a gasoline station? Does that make sense, Mr. President?

Senator Alvarez. Mr. President, on exploration, the distinguished Gentleman and I will have no quarrel on this. There is really a need to administer programs in order that we systematically explore the potential areas. There are 13 sedimentary basins where there are known to be deposits of petroleum or fossil fuel; and yet only one or two are being explored off the coast of Palawan. There are land-based deposits, and yet they are not being explored systematically precisely because massive investments and program will be needed for these, so that this provision can cover that.

I, too, agree with the Gentleman that the matter of marketing and distribution may already be undertaken. But to the extent in which they must be undertaken, what systematic or phase program they must be undertaken, I believe, should be left to an understanding by a body which we are going to create, so that it will not introduce more discord and disarray into an already complexed and confused market.

Senator Angara. Mr. President, I think the confusing and confused market is precisely brought about by the over regulation of government. The regulation is segmented because of the structure of the energy organizations right now. There is a NAPOCOR, with its own kingdom; there is a National Electrification Administration; there is PNOC with its own kingdom.

I agree, Mr. President, that the market is in disarray. But I am suggesting that the solution is not creating an even more powerful and bigger organization to encompass all these organizations.

Senator Alvarez. With one mandate, Mr. President, that this organization must seek in every step of the way and ultimately relinquish its intervention in the market system and allow the operation of market forces whenever it sees fit. That will be the mandate. Because, while it is true that the Gentleman and I are convinced on the creative capacity of the market to produce more goods and services efficiently with some programs in place, we would like to have an orderly phase out of this intervention process. And we have created this mechanism, this decision-making authorization, in order to rationalize precisely, because what we have been handed from many years past are systems of varying areas of activity which cannot be let loose suddenly at this point.

The commodity that we are trying to bring in more abundance into our economy is such a vital commodity. We cannot let go the institutions now and allow the private sector to completely take over, because even while we believe that in the long term, the market would be a more productive mechanism, for now, in this interim, there is a need to manage the market until the market itself can take over the whole process of production and distribution of this commodity.

Senator Angara. That is precisely what is wrong, Mr. President, if we intend to manage, to market because no government has succeeded in managing any market. The record of government in this country is not an outstanding one in managing anything. So, I am opposed to government managing anything.

I can agree, Mr. President, and if we can write it very clearly, that there are certain areas in energy development that we must give to government pioneering efforts — exploration and electricity distribution in rural areas, for example. But I can see very clearly — and we do not have to wait for any transition period — that we must now deregulate certain activities immediately without having to wait for a transition period.

I would like to see if the staff of the Gentleman's committee can do it. I would be happy to assist, identifying those activities that we can immediately deregulate and those activities that we reserve to the Department of Energy.

Senator Alvarez. Mr. President, the direction really is towards deregulation. But we are talking of a systematic phase-out or deregulation — a systematic phase out of government intervention.

Senator Angara. The record has been of systematic concentration, Mr. President, so I do not think we need to wait for any transition period to deregulate. If we make a decision to deregulate then, we decide here and now under this bill. Because if we just leave it to the bureaucracy to divest itself of all power and authority, that will never happen.

Let me go to another area, and that is the Energy Regulatory Board, Mr. President. The Energy Regulatory Board has jurisdiction over pricing of electricity, power, and of petroleum products. Since I believe that the pricing of petroleum products ought to be deregulated already, does the Gentleman agree that the Energy Regulatory Board ought to concentrate its jurisdiction, as in the past, like the Public Service Commission, then, over deregulation of electricity rates, so that it will not interfere anymore with the pricing of petroleum products?

Senator Alvarez. Mr. President, we have not intervened with that exercise of function of regulation of the Energy Regulatory Board. I think timing would be of the essence. There is a need for some public debate on that. I have no doubt that eventually, except for the pricing, imports and their by-products of fossil fuel will be regulated. However, I will, because it is such a volatile and sensitive commodity, allow the input of many sectors of the community before that is finally undertaken. I would rather that we handle this matter of the creation of the Department of Energy, and leave with the mandate for deregulation, the final decision on this matter, after a fuller and a more thorough public discussion shall have been accomplished.

Senator Angara. What we can do, Mr. President, so that there will be specific mandate, not just a broad mandate that the Secretary will interpret himself, that we make the mandate to him specific. That given a certain time, whatever it is, within one, two or three years, then he must begin deregulating the following activities and divesting himself of authority over those things. Would the Gentleman agree to that formulation, Mr. President?

Senator Alvarez. Yes, Mr. President, I agree with that. As a matter of fact, one of this Representation's proposed legislation of Section 7, page 3, line 10 will be along that line, putting a time frame for the systematic deregulation which will have to be mandated to the proposed Department of Energy.

Senator Angara. What section is that, Mr. President? I myself missed it.

Senator Alvarez. My proposed amendment will be on page 3, line 10.

Senator Angara. It is a proposed amendment.

Senator Alvarez. My own proposed amendment.

Senator Angara. It is not in the bill yet. But remember, Mr. President, that substantially we have lifted the proposed....

So, in a sense the Gentleman agrees with my proposal, Mr. President.

Senator Alvarez. Yes. I have no disagreement with the Gentleman, personally, Mr. President.

Senator Angara. Thank you.

Senator Alvarez. But this bill that we are considering now is the Malacañang proposed bill which they have certified.

Senator Angara. It is our duty to improve on this bill, Mr. President.

Senator Alvarez. There would be a chance, Mr. President, I am sure, for the Gentleman's wisdom to recommend this measure.

Senator Angara. Thank you, Mr. President.

Now, going back to the Energy Regulatory Board. Under this proposal, Mr. President, the Secretary shall exercise administrative supervision over the board. I think this is the heart of the problem on price regulation in this country, because the Energy Regulatory Board, which is a quasi-judicial body supposed to be autonomous and independent, is subject to the direction of a political official, which is the Secretary. I do not see why we should continue with this practice, and why we should continue to subject the board to the administrative supervision of the Secretary.

Senator Alvarez. Mr. President, the appointment of the Members of the Board will be made likewise with the recommendation of the Secretary. However, the decisions will only be appealable to the Supreme Court.

Senator Angara. Mr. President, it is just like saying that the Justices of the Supreme Court are appointed by the President, but we place them under the administrative supervision of the Secretary of Justice. This is exactly the situation here, Mr. President, if we continue with this practice.

Senator Alvarez. Mr. President, that is done with the underlying assumption that the mandate of the Secretary is to deregulate and at the opportune time to transform this whole mechanism, the supervisory and decision-making mechanism into a deregulated agency.

So, if we establish the phaseout of regulation and the Secretary retains purely administrative control, I do not see how this could

be a threat to the full exercise of the authority of the Energy Regulatory Board.

Senator Angara. Mr. President, as I said, this is the heart of the problem about government both in the energy business and at the same time acting as the regulator. The playing ground is not even if this is the situation, because the government is a competitor. The Petron is competing with the other private oil companies. And yet, we are saying here the Secretary will have influence over pricing policy because the board that determines that maybe under his supervision. Make it even, fair and square.

If the Gentleman wants to be a competitor, then remain a competitor but do not insist on being a regulator at the same time. We want the Energy Regulatory Board to be an independent body beyond the political influence of the Secretary — that is all we are saying, Mr. President — in the same way that the Public Service Commission was such a quasi-judicial and independent body before. And they are the ones who determine rates.

Senator Alvarez. In principle, Mr. President, we do not disagree with the Gentleman's outlook over this matter. However, we feel that there is a need for a systematic deregulation. While we feel that the market should be deregulated, eventually, we do not believe that an outright mandate for deregulation can take care of all our problems. There are still certain policy objectives that must be served and conditions must be set before we can go into fuller regulation.

Senator Angara. Mr. President, unfortunately, I am not talking about deregulation at this point. I am talking of the integrity of the regulatory function of the Energy Regulatory Board.

Senator Alvarez. Yes, I know what the Gentleman is talking about, Mr. President. But in the total conceptual framework that this bill has been proposed, while it is true that ultimately the objective is to deregulate, however, there are still certain considerations that must be taken into account so that the deregulation process cannot be made drastically here now. It has to be a phase-out process. We view the conditions to be, while favorable to deregulation to a considerable extent, and still unstable, public intervention must be in the process so that the deregulation process can happen very systematically without threatening our already very volatile and perhaps, we might say, a disorderly and insufficient supply of power and electric energy.

Senator Angara. Mr. President, the Energy Regulatory Board has nothing to do with deregulation. It has to do with pricing and regulating prices of electricity, crude and other petroleum products. What I am saying is, to preserve the integrity of that decision-making process, let us not allow a political official like the Department of Energy Secretary to be an overseer

of that Board, because I read its decision somewhere here on page 7, lines 7 to 8 that the decision of the Board shall be appealable to the Supreme Court.

The importance this bill gives to the decision of the Energy Regulatory Board, which decision cannot even be appealed to a trial court or to the Court of Appeals — it must be appealed to the highest court of the land — in line with the importance we attached to its decision, we should not also tamper with that decision-making by allowing the Secretary of Energy, who is a political appointee, to interfere in that process.

That is all I am saying, Mr. President. It has nothing to do with deregulation or the phase of deregulation.

Senator Alvarez. What I am saying, Mr. President, is that while we will allow the fullest freedom for ERB, we do not entirely want to remove a certain amount of accountability.

The general thrust of this legislation is, while it relinquishes public intervention, it does not acknowledge the cure-all of a deregulation decision here and now. I mean, this has to be managed. Markets must have to be managed. Even while market forces are let loose upon us, certain elements in the market must have to be managed. As a matter of fact, it is the judicious management of certain market conditions which can bring about a healthy operation of these forces.

Since things are not that stable in the energy arena, in the production of power, and in the electric energy, a certain amount of intervention is still contemplated in all these provisions.

Senator Angara. That is where we disagree, Mr. President, because we thought that government should, in fact, lessen its areas of intervention; and, much less, there should be absolutely no intervention at all in the Energy Regulatory Board.

I do not think we can come to a common stand here, Mr. President. So I will leave it in the meantime.

Will the distinguished Gentleman tell us what is the meaning of "administrative supervision" with respect to the attached agencies — the Philippine National Oil Company, the National Power Corporation, and the National Electrification Administration? What is the scope and the extent of "administrative supervision" of the Secretary in all those agencies?

Senator Alvarez. "Administrative supervision," Mr. President, in reference to Section 11 of the attached agencies does not mean the substitution of the decision of this attached board or agency. However, in the shaping of general policies of the energy program, these attached agencies must have to adhere to the general guidelines, especially in the preparation of the Philippine energy program.

Senator Angara. I asked that question, Mr. President, because this particular provision, Section 11, sends conflicting messages. First, it says, "under the administrative supervision."

The way I understand "administrative supervision" to mean is that it may oversee. It is an oversight body and, therefore, it has no executive or line function. And yet, down the line, the Gentleman says that the Secretary shall be ex officio chairman. So, we are beginning to give him executive and line positions.

Second, the final paragraph says that the Secretary may reorganize, revamp and recommend the members of the Board of Directors.

In other words, what we are granting the Secretary is a *carte blanche* authority to reorganize these agencies. And if that is the intent, then I think we might as well make that in black and white.

More than that, we may now consider really whether the PNOC, the NPC, and the National Electrification Administration have valid reasons to exist instead of, in effect, camouflaging our mere intent under this different language or under a different phraseology.

Senator Alvarez. Mr. President, this language or phraseology insures that the general policies of the department may be carried out in the implementation of the functions of a different attached agency. It is not to control the executive implementation on the detailed basis of the different agency.

The provision that the Secretary may reorganize, revamp or recommend the PNOC is to give an opportunity for the duly organized department to have a fresh mandate of leadership. Because we acknowledge the fact that even now, where we have had some difficulties with attached agencies, there may be a need to put in fresh batch of leadership in the mandate that we are giving the Secretary in order to be able to carry out the program. His reorganization may be one of the features in which he can reinvigorate the whole program so that the accountability of a new department with a new secretary may really be meaningful. Because if we are going to attach this with its own old and structured behavioral patterns, with the same personnel having established that kind of a cultural behavior, and yet we expect the new department to be accountable for a revitalization of the energy program, I think it may be asking too much if we do not give the fullest authorization to the department to seek out the personnel and manpower it may so desire in order to introduce the needed change.

Senator Angara. Mr. President, I am not against reorganization or firing of people if that is really the intent. What I am against is the almost lack of honesty in the language and the intent. If the intent is such, then let us state it so, because even the

heading of this, "Attached Agencies," means that they are only attached for program and policy coordination rather than control. And there can be no stronger control than one's right to fire the governing board.

So, if that is really the intent, then, let us state it. But I do not think that the language used here reflects that intent.

Mr. President as shown by the PNB revamp, the power to replace the governing board does not automatically insure that good people will follow the old.

Senator Alvarez. Mr. President, nothing really insures, even the legislation that we are crafting here, total and absolute reform. However, we are hopeful that some of these critical and strategic alterations in the manner the decision should be made can open up the opportunities for change.

Senator Angara. Yes. Except that we must be clear in the language and intent, Mr. President, because this is a very pivotal department that we are creating. We are not simply creating a department. We are making economic policy in this bill and, if we have to do that, then we should use language that fits the intention.

Senator Alvarez. Mr. President, this Representation has no intention of offering a subterfuge or a concealing of motives, but we will welcome, at the opportune time, the Gentleman's proposed amendments to clarify his points.

Senator Angara. Yes. Certainly, I will offer amendments, Mr. President.

Let me move now to this council of Energy Advisers which the Gentleman claimed is the mode of participation of the private sector.

What really will this Council do, Mr. President? Because it just simply says here that it will advise the President on the overall energy program.

Senator Alvarez. Mr. President, right now the management of the energy program is exclusively in the hands of the public sector. And there has been created some task force in order to help in clarifying the sticking point of the energy program. We thought perhaps, if we formalize the participation of the private sector which would fundamentally be in accord with the polarity of deregulation and privatization and bring them alongside the Executive so that they can more directly participate in the process of ushering deregulation, then we feel that deregulation will have its advocate right within where decision-making will be very important in the Office of the President.

Senator Angara. Mr. President, there have been bodies and bodies where private sector participation has been invited and yet,

the experience of the private sector has always been unsatisfactory because they are used almost like a window dressing to government decisions. It is better that we already spell out in the law what the private sector's participation is and, I think, more than just an advisory role, we must provide and indicate to the private sector the areas where they can already invest in energy rather than this tokenism of Council of Energy advisers.

Senator Alvarez. Again, Mr. President, may we take the Gentleman's attention on a proposed amendment which we had intended to introduce a few times to the effect that there will be a study for the eventual deregulation of the petroleum industry to be undertaken by the Council of Advisers.

Senator Angara. That does not alter my basic position, Mr. President.

Just as a final word, Mr. President.

Does not the distinguished Gentleman agree that we must now state in this law the future shape of energy policy that should be the mandate of the future Secretary of Energy because, otherwise, if we just accept this declaration and enumeration of powers and functions, it would be very difficult to go into privatization, into deregulation in the future, for instance. Because under this bill, the future Secretary would be wielding tremendous regulatory powers over all aspects of energy development in this country. Worse, he can even intervene in the setting of prices which really makes the industry overregulated than what it is now.

Does not the Gentleman agree that we must now spell out the policy direction in this bill and, ideally, already set a time frame within which this deregulation and privatization can happen? We want a strong Secretary. For how long he will be a czar, he will wield an almost dictatorial power over the industry. But let us not make it one minute longer than necessary.

Senator Alvarez. Mr. President, that is the intention in this bill. We have the necessary amendments to this version of Malacañang. As a matter of fact, we have indicated the time frame. As has been recurrent in this exchange, in this dialogue, we are always for deregulation. But since decisions for deregulation cannot be made drastically in any one sector of the economy without considering other big considerations, for instance, the program of growth, it will yet have to be clearly defined in what terms.

The deregulation process in the energy sector must be made to march along with the general program of growth and building an export-led economy which will remove many of the restraints in the market. But as we do that, when we remove the restraints from the market, it also presupposes more participation in some aspects of the market. Some aspects of the market must be protected.

In agriculture for instance, Mr. President, there is a need to think that since market is a creative element in some models of development, we do allow the market to participate drastically and uncritically in all aspects of our development program. So, even as we begin to deregulate, and are committed to the philosophy of deregulation, it should be done with a lot of caution since the economy is so thin, and we do not really know how far we are prepared to go all the way for deregulation.

I am, therefore, recommending that, if we craft this piece of legislation and we give it a mandate, the deregulation process, while it is going to be a commitment, should be cushioned. The hand of the Executive in observing the developments of certain economic development forces that will have an effect on the energy sector must be given its due consideration.

While the Gentleman and I have our cherished viewpoints, our own ideological vent, the Gentleman and I, perhaps, must yield a little of that to those who will manage the program.

Senator Angara. Mr. President, the way the Gentleman sounded, he does not really believe in deregulation because what he has described to us is really managing the industry, and that is far from deregulating it.

I think we can have a middle ground, Mr. President. If we see deregulation as a way for private industry to be active in energy development, then we can begin identifying in the bill the areas of energy development that ought to be reserved to government and areas that ought to be deregulated.

The timing and phasing we can leave it to the judgment of the Secretary. That is one mechanism that I am suggesting so that we can really translate the Gentleman's and my ideals into black and white. The most dangerous thing, as our experience shows, is to leave a mandate so broad that the Secretary himself will interpret it, and no Secretary of any department in this country has given up authority at any single time in the past and in the future. They will not give up authority.

Senator Alvarez. But if we limit the time frame in which a program will be carried out, the Gentleman and I will still be within that time frame serving in this Chamber so we can intervene.

Senator Angara. That may be too late, Mr. President, because the crisis is on us.

Thank you, Mr. President. I will look forward to the proposed amendments that the Gentleman would present, and I would like to be able to ask him some more on those proposed amendments.

Thank you, Mr. President.

Senator Alvarez. Thank you, Mr. President.

Senator Mercado. Mr. President.

The President Pro Tempore. The distinguished Gentleman from Quezon City and Eastern Visayas, Senator Orlando Mercado, is recognized.

Senator Mercado. Mr. President, would the Sponsor yield to a few questions?

Senator Alvarez. Willingly, Mr. President.

Senator Mercado. Mr. President, I would like first to pursue the line of questioning of Senator Angara with regard to the future shape of the Energy Department and its thrusts as to how we will source and manage our energy resources.

Mr. President, in reply to an earlier question, the Sponsor mentioned that the generation of power that is envisioned to be undertaken by this department would be environmentally friendly.

Senator Alvarez. Environmentally friendly, indigenous....

Senator Mercado. Indigenous sources, taking care that the extraction of these resources would not contribute to the destruction of the environment.

But where in this particular measure would these guidelines be and in what manner will they be undertaken?

Senator Alvarez. These will be in the mandate on the powers. We will introduce that, Mr. President. This original version does not have the benefit of our proposed amendment.

Senator Mercado. I am concerned, Mr. President, because, as Senator Angara has mentioned, this may be the intent, but I do not see the specific provisions that point to the requirement that the exploration of our resources for the production of energy should take into consideration the ecological balance and the possible destruction to the environment.

Senator Alvarez. There are provisions here, Mr. President, which mandate in the midst of decision-making a consideration of conservation and healthy environment, aside from the proposed amendments which we are going to introduce at the opportune time.

Senator Mercado. Could I have that provision now, Mr. President?

Senator Alvarez. Yes, Mr. President. "Assure the incorporation of national environmental goals in the formulation and implementation of energy programs...."

Senator Mercado. What section would that be, Mr. President?

Senator Alvarez. That would be page 4, Section 9, Subsection 1 (e).

Senator Mercado. Mr. President, the Sponsor said that these general statements are just the framework, and some amendments will be introduced and that the same specify ways and means to protect the environment. Did I get the Sponsor right?

Senator Alvarez. Yes, Mr. President. We will introduce the appropriate amendments, my own amendments, and the Sponsor's amendments at some time that will clarify that the thrust of the energy program, the mix of the energy program should be according to preferential bias. There will be a mix of energy sources, Mr. President, and that energy source which should be friendly to the environment, indigenous, and of less expense to the country should be preferred.

In the fast-track program, for instance, the bias has been on expensive imported diesel fuel to be able to cover up the gap.

In the long-term program which must be formulated by this department, our mandate would be to put more bias towards environmentally friendly, energy sources. It does not mean to say that when we use coal or diesel fuel, we will not be putting the environmental restrictions. That is going to be another arena of legislation, where we will be demanding, and there are already standards that must be observed.

However, in the total planning and/or macro level, we are mandating here that there should be a preferential bias towards building, more or less, the geothermal plants, and going as much as we are able into the use of solar and wind energies which are indigenous, inexpensive, and environmentally friendly.

So we are now opening a direction where the total mix of energy sources would gradually shift into areas or sources which are going to be compatible with the environment.

Senator Mercado. Mr. President, it has already been established that it is really more expensive to clean up industrial and agricultural wastes than to protect the environment. Pollution control laws have always been very expensive and very difficult to implement. For example, in air pollution, with the lead content in the atmosphere that we breathe, we know that there is a serious need to shift unleaded gasoline, but this requires a certain phasing-in and a phasing-out period.

Senator Alvarez. Fuel and machineries, Mr. President.

Senator Mercado. Yes, indeed. If we can at the outset already lay the framework for an environmental program that has a very strong bias towards controlling pollution, then we may not have to go into the cleaning-up process which has proven to be, not only, ineffective, but expensive.

That simply is the thrust of my question, Mr. President.

Senator Alvarez. Mr. President, that is wishing for paradise. Even the developed countries have not been able to organize a mix of energy sources that really fitted in favor of the more friendly energy sources. If we look at the structure of sources of energy in such countries as the United States where the environmental component in programming has been taken into a very serious account, the energy sources are still predominantly that of oil which is not as friendly as when we get it from geothermal or we get it from hydro. There are certain states that are able to supply more of hydro because of the availability of hydro resources.

Here in our country, we would see, hopefully, more in the percentage increase for hydro and geothermal as we move along. That is why we are going to mandate this in the exercise of the functions of the department. However, we have to settle with the reality that in order to be able to prevent in the short run these recurrent brownouts, our programmers have resorted to the use of diesel fuel.

And in order to be able, in the medium term over a period of 10 years, to supply the need of the nation for growth, we have to settle with the deployment of more coal-fired thermal plants, because the resources are not there for the utilization and deployment of more geothermal or hydroelectric system. There may be insuperable difficulties enhancing the more friendly sources of energy.

However, the mandate is here, and the mandate is, whenever possible, the department should seek out all the opportunities for stressing more on the use of environmentally friendly sources of energy, without letting go of environmental regulation on controlling pollution coming from power systems.

Senator Mercado. Mr. President, I will not argue lengthily on this point. I would like, however, to disagree with the Sponsor in his perception that our proposal is wishing for paradise or for a utopian state of affairs.

What we are trying to say is that given our resources, the experience is, we have frittered away our own very basic advantages in terms of hydroelectric resources, and this is proven by fact. And now we are going to be largely dependent on fossil fuels and other types of energy.

Would a policy be made already, Mr. President, for example, on whether we are going to go nuclear or we are going to empower this Department of Energy with the mandate to decide what kind of energy sources we would use, including nuclear power?

Senator Alvarez. No, Mr. President. I think that decision will have to be determined in some other forum. I have expressed my strong opposition on the use of nuclear power, and I do not think that this law should endorse the use of nuclear power. There are some provisions here on the authority of the department, but that is only the authority of the department. One of our Colleagues has already raised an issue with this one particular provision. And in the opportune time, he will make his reservation which I will welcome, Mr. President.

Senator Mercado. Yes, indeed, Mr. President, because in Section 4, paragraph 4, mention is made of nuclear fuel. And not only that, we are empowering this department to plan, implement, coordinate and supervise all government activities; regulate the private sector activities relative to all the activities, including utilization, importation, exportation, and processing of all forms of energy products, including, of course, nuclear products.

Would this particular provision, which is the mandate of the department, include control over the importation of nuclear fuel used even for nonenergy generating activities, for example, the activities of the Philippine Nuclear Research Institute or PNRI which used to be the Philippine Atomic Energy Commission or PAEC?

Senator Alvarez. Mr. President, the phrase used here is "nuclear fuel," and this should not really be interpreted to mean an authorization for them to open up the Bataan Nuclear Power Plant. There are other uses of nuclear energy, nuclear materials. For instance, we are undertaking some nuclear research which could be embraced under this provision.

Senator Mercado. Is the distinguished Gentleman saying that, under this particular mandate, the importation of fuels, the utilization of nuclear power for nonenergy generating activities will be under this particular department, if I follow the line of reasoning of the Gentleman?

Senator Alvarez. Yes, Mr. President. If and when the policy shall have been adopted, perhaps, the Gentleman can interpret this to mean that it will supervise the movements, the storage of nuclear fuel. But there has been no decision as to that. I think that is an entirely separate and a very sensitive policy which has to be confronted directly, not by indirection.

Senator Mercado. That is precisely my point, Mr. President. For example, the PNRI, under the Department of Science and Technology, would undertake activities using nuclear power for

medical purposes, for instance, for cobalt or radiation therapy or nuclear research for food or for agriculture.

Would this broad mandate allow the department to now oversee the activities of the PNRI, and as such all activities related to nuclear fuels or nuclear energy will be under the Department of Energy?

Senator Alvarez. There are specific rules on this, Mr. President. For instance, Republic Act No. 6969, Chapter 4, subsection 4, refers to the production, transfer, utilization of nuclear and radioactive substances for study and research — under Section 18, the Philippine Nuclear Research Institute. So we are not discounting the authority of this department to provide for the mechanism whereby these matters could be dealt with. We are not closing the door, especially because these are provided in other laws; in the Administrative Code, for instance.

Senator Mercado. Would that mean the absorption of organizations like the PNRI, the Philippine Nuclear Research Institute under the DOST? In effect, this all-encompassing mandate will be under the Department of Energy.

Senator Alvarez. I do not see any incompatibility, Mr. President. This only opens up, if there should be a chance to handle that matter, that the department would have the wherewithal to undertake this program.

Senator Mercado. I just wanted to know whether or not, by virtue of this provision, the functions of the Philippine Nuclear Research Institute under the DOST will be absorbed by the Department of Energy or not.

Senator Alvarez. No, Mr. President. There is nothing here which says that.

Senator Mercado. Thank you very much.

Mr. President, I would like to go to another matter. One of the recurring complaint against the establishment of new government offices is the fact that the bureaucracy is already large as it is, and any effort to reduce the size of the bureaucracy has been naturally met with a lot of oppositions, especially from those who would lose their jobs.

In this particular situation, what safeguards do we have to see to it that we are not creating a new department that will later on grow in size and later on will spend 60 percent of its budget for salaries as is common in other departments of the government?

Senator Alvarez. Mr. President, by the manner in which we have defined the functions and the agencies which we have absorbed, we will note that we have absorbed the office of Energy

Affairs and the consultative body on energy planning of the Cabinet. Roughly, they have a personnel of about 300 there. With the way we have defined the function, there should be an additional 100. So, we will have about 500 here, almost incomparable to the old Department of Energy.

As to the budget, since we are taking over the resources and the personnel of the Office of Energy Affairs, then the collection under that office for service contracts, which is about P200 million to P250 million, would already be a source of revenue to cover the expenditures for this department. We estimate, Mr. President, from consultations, we have found out that an additional P100 million, roughly about P350 to P400 or P500 million, would be enough to run this department. And if we feel that this is such a vital mechanism that must really be harnessed, then that amount would be a reasonable amount.

Senator Mercado. Mr. President, my reservation is that we may start off with the department of about 500 people. Our fear usually is that in a very short period of time, this will multiply and this will just become a very large, humorous part of the bureaucracy. And before we know it, we are allocating money for administrative expense and salaries of employees, as is the problem with other departments where the actual delivery of service is only a very small portion of the total expenditure for the department.

Senator Alvarez. In which case, Mr. President, they will be held accountable year in and year out with this Body and the other Chamber as well, the Lower House.

Senator Mercado. These are the points I wanted to raise, Mr. President.

Senator Romulo. Mr. President.

The President Pro Tempore. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 695

Senator Romulo. Mr. President, with the permission of the Sponsor and Author of the bill creating the Department of Energy, I ask that we suspend consideration of Committee Report No. 5 on Senate Bill No. 695, so that we can take up the approval on Third Reading of Senate Bill No. 508, the Anti-Subversion Act.

The President Pro Tempore. Is there any objection? [*Silence*] Hearing none, the consideration of the bill is suspended.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a suspension of the session for two minutes as we are asking the Sponsor and Author of Senate Bill No. 508 to come to the Floor.

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

It was 5:24 p.m.

RESUMPTION OF THE SESSION

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

The President Pro Tempore. The session is resumed.

Senator Romulo. Mr. President, may I first ask that the additional Reference of Business be read by the Secretary.

The President Pro Tempore. The Secretary will read the additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

The Secretary.

31 August 1992

Honorable Neptali A. Gonzales
Senate President
Philippine Senate
Congress, Manila

Dear Senate President Gonzales:

I have the honor to certify to the necessity of the immediate enactment of Senate Bill No. 508, entitled

AN ACT REPEALING REPUBLIC ACT NO. 1700, AS AMENDED, OTHERWISE KNOWN AS THE ANTI-SUBVERSION ACT.

With my highest esteem and regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

The President Pro Tempore. To the Committee on Rules.

The Secretary.

31 August 1992

Honorable Neptali A. Gonzales
Senate President
Senate of the Philippines
Manila

Dear Senate President Gonzales:

I have the honor to certify to the necessity of the immediate enactment of Senate Bill No. 695, entitled

AN ACT CREATING THE DEPARTMENT OF ENERGY, DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES,

as reported in the Senate Committee on Public Services Report No. 5 dated August 31, 1992.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

The President Pro Tempore. To the Committee on Rules.

Senator Romulo. Mr. President, these bills have been certified by the President to the necessity of their immediate enactment. Therefore, they meet the constitutional standards for the immediate passage of these bills on Third Reading immediately after the Second Reading.

Senator Tolentino. Mr. President.

The President Pro Tempore. The Gentleman from Manila and Rizal is recognized.

Senator Tolentino. May we request the Secretary to read this letter of His Excellency, the President, certifying to the immediate enactment of the bills mentioned therein for our information before we proceed to vote as requested by the Majority Leader.

The President Pro Tempore. The Secretary may read the letter, as requested.

The Secretary.

31 August 1992

Honorable Neptali A. Gonzales
Senate President
Philippine Senate
Congress, Manila

Dear Senate President Gonzales:

I have the honor to certify to the necessity of the immediate enactment of Senate Bill No. 508, entitled

AN ACT REPEALING REPUBLIC ACT NO. 1700, AS AMENDED, OTHERWISE KNOWN AS THE ANTI-SUBVERSION ACT.

With my highest esteem and regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

Senator Tolentino. Mr. President, we would like to submit that this letter of His Excellency, the President, does not make any exception to the constitutional provision requiring at least three days after distribution of printed copies of a bill before voting on Third Reading. The letter does not comply with the requirements of the Constitution.

We submit that, Mr. President.

The President Pro Tempore. The Chair takes note of the fact that those who are members of the Commission on Appointments met this noon and early afternoon. Since 10 o'clock this morning, they have been going through seven hours of continuous work.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, I ask that we suspend the session for 10 minutes.

The President Pro Tempore. The session is suspended for 10 minutes, if there is no objection. [*There was none.*]

It was 5:28 p.m.

RESUMPTION OF THE SESSION

At 5:44 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

The Majority Leader is recognized.

Senator Romulo. Mr. President, in view of the objection raised on the Certification by Malacañang on both the bills repealing the Anti-Subversion Act — Republic Act No. 1700 — as well as the bill creating the Department of Energy, we are asking Malacañang to give us a certification which meets the constitutional formulation which is, that these bills are being certified in view of the necessity of its immediate enactment, either to meet a public calamity or emergency, Mr. President.

So, in the meantime that we are waiting, Mr. President, and there are no other matters that we can take up, and since this has been a very long day, I move that we adjourn this afternoon's session until 10 o'clock tomorrow morning.

Senator Tañada. Mr. President.

The President Pro Tempore. The Gentleman from Quezon is recognized.

Senator Tañada. Thank you, Mr. President.

Before we adjourn, may I just enter into the *Record* that Proposed Senate Resolution No. 90, which is the resolution urging President Ramos and all contending rebel forces to declare a suspension of offensive military operations as a goodwill and confidence-building gesture to pave the way for peace talks, is also sponsored by Senators Tatad, Biazon, Aquino, Shahani, and Mercado, Mr. President.

The President Pro Tempore. So noted.

The Majority Leader is recognized.

ADJOURNMENT OF THE SESSION

Senator Romulo. Mr. President, I reiterate my motion to adjourn until 10 o'clock tomorrow morning.

The President Pro Tempore. The session is adjourned until 10 o'clock tomorrow morning, if there is no objection. [*There was none.*]

It was 5:46 p.m.



**REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE**

Record of the Senate

**FIRST REGULAR SESSION
JULY 27 TO OCTOBER 14, 1992**

VOLUME I, NOS. 1-28

**SPECIAL SESSION
NO. 1**

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Sponsors: Senators Lina, Jr., Webb and Rasul.

The President. To the Calendar for Ordinary Business.

SPECIAL ORDERS

Senator Romulo. Mr. President, I move that we transfer Proposed Senate Resolution No. 96, as reported out under Committee Report No. 13, from the Calendar for Ordinary Business to the Calendar for Special Orders.

BILL ON SECOND READING

Senate Bill No. 695 — Creating the Department of Energy
(Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 695, as reported out under Committee Report No. 5.

The President. Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. I ask that the Sponsor of the bill, Senator Alvarez, be recognized.

The President. Senator Alvarez is recognized.

Senator Alvarez. Thank you, Mr. President.

Senator Maceda. Mr. President.

The President. The President Pro Tempore is recognized.

Senator Maceda. Mr. President, will the distinguished Chairman of the Committee on Energy and Environment answer a few questions?

Senator Alvarez. With pleasure, Mr. President.

Senator Maceda. Mr. President, I have followed with some interest the interpellations so far. The first thing that has registered in my mind is the fact that this is really a bill that could be simple or complicated, depending on how we look at it.

Senator Alvarez. How complicated, Mr. President?

Senator Maceda. Is my perception correct, Mr. President, that between the new President and the distinguished Authors of this bill, the suggestion, hope and expectation, if not the representation is that it is necessary to pass this particular piece of legislation to solve what is commonly known as our very serious brownout or energy problem. Isn't that the immediate reason why

this is one of the first bills that was mentioned by the President in his State of the Nation address?

Senator Alvarez. Yes, Mr. President. On the immediate, it will not solve the brownouts, but on the medium term, it will prove stability to the continuing supply of power and energy, in that order.

Senator Maceda. So that, Mr. President, if we have any chance of really passing this bill expeditiously, the more we limit our focus to that particular immediate concern, probably the more we can agree. But I am just wondering whether if we include the whole aspect of environmental concerns, the whole aspect of deregulation and privatization, as well as several other aspects, all the aspects of nuclear energy, it might take us up to December to discuss this bill.

May I have the distinguished Gentleman's reaction to this real problem that has come up based on the first few interpellators who have stood on this Floor.

Senator Alvarez. Mr. President, there is no doubt that with the complexity that we will introduce into this measure anticipating many dimensions of the social problem, it will prolong some discussions. But I am hopeful, Mr. President, that if we do that, and yet discuss it to expedite a very vital measure, we will come up with a truly responsive legislation which, after all, would be appreciated by those who will not only be affected today but tomorrow of our energy problems.

Senator Maceda. That is why, Mr. President, I was probably searching for some guidance. I think I agree partly with what I have heard — and fortunately I was presiding at that time and I was listening — the matter of the environmental aspects of this bill that has been brought up. I regret to say that at the moment, I disagree in great part to the problem of deregulation and proposals to free the private sector from government interference. And, of course, at this point, I have not come to any definitive conclusion on the question of nuclear energy.

So I was wondering whether I am going to have to prepare for an all out debate on these three aspects of this bill that have been brought up, or is there any way by which we can really avoid consideration of some of the points that have been brought up so that we can focus this precisely in the matter of very definitive sections and provisions with regard to the present energy and power problems and just agree to the aspects of a policy statement indicating our concern as to the matters that have been brought up but without fully committing immediately to a specific way to go as far as those three items are concerned.

I am searching for guidance as to how the Sponsor would like to go about it. Because based on some of the answers of the

Sponsor — and normally when we are sponsoring a bill, we try to accommodate all of the views that are placed on the Floor. But I would like to serve notice if I am given an indication that the Sponsor would like to take up in-depth and in detail and go into specific amendments as was suggested with regard, for example, to those three items brought up so far, then I will really have to take either a supportive or contrary or partly supportive or contrary position to those items that were brought up.

I see no problem substantially with the bill as reported out. But if I am going to go by debate so far, I am starting to get worried that we will really go into great detail on the matter. So, where are we now, Mr. President?

Senator Alvarez. Mr. President, this Representation has never been aversed to a creative compromise; whether the compromise means to expedite or to improve or to respond to a common perception of the problem. So, as we go to the period of amendment, we will use the same technique on the Floor of breaking for a while and discussing an impasse.

There is an underlying assumption here, Mr. President, that none of us have the monopoly of the information or the solution. So, we will keep our minds open, understanding fully well that indeed, this measure is very crucial and need full implementation.

Senator Maceda. Mr. President, I fully accept the wisdom of what the Gentleman is saying. I do not intend to go into great detail in the interpellation except to reserve my position specifically: One, on the question of deregulation; second, on the question of the environmental aspects of this bill; and third, even on the question of nuclear energy policy.

I would like to say that I support, if I got the gist of the Gentleman's statement fully, that this is not the proper time to consider a full deregulation of energy and power programs of the government. And certainly, I am not sympathetic to accepting the views of the Caltex people so widely circulated here on the Floor where they want — it seems to me — to get everything that is favorable to them which I think is directly contrary to the public welfare, especially the welfare of the consuming public.

Meaning to say, I would like to reserve, and I would not be in favor of closing the debate today or tomorrow unless there is an indication, and maybe we could take it up off the Floor either in a formal or informal caucus as to what will really be the direction as far as those three items are concerned. So we can decide whether we will really spend the rest of today and the whole of tomorrow on this bill, or if those matters are to be taken up, I have no problem with them being taken up.

I am just saying that if those matters are going to be taken up, then certainly, it would not be fair to the people and to the

Members of this Chamber to try to rush the passage of this bill by tomorrow evening and in the meantime, go into certain major amendments of policies, especially with the matters already discussed.

Senator Alvarez. We appreciate the clarification on the parliamentary problem, Mr. President, and we appreciate that we can go into the tangled thickets of debate and frustrate our intentions of serving the much-needed support that this new government is calling upon us to furnish them. However, the Gentleman's wise deed, Mr. President, in recommending that perhaps when we do get into the specifics of any of these three items, although I foresee that only deregulation may be a sticking point, perhaps, we should really go into executive session to expedite this.

But, if the Gentleman feels that the bill as is, is a reasonable definition of how to respond to the problem, I do share that, except that I do want to give it some refinement in order to make the bill more responsive to long-term problems that is expected of us in the Chamber. After all, there is the Conference Committee, Mr. President.

We know that after we have approved it, we have shown the people that we are capable of responding to a request from the executive within reasonable bounds. There is a conference committee, and the Gentleman understands what I am trying to say, Mr. President.

Senator Maceda. Mr. President, I understand, and I hope the Gentleman also understands me. It is by reading of all the pronouncements of the President that nowhere have I seen any indication that the President is proposing any form of deregulation.

So, to be very reasonable, as the Gentleman said, if the bill will only say that the Department of Energy should concern itself with that problem, without committing specifically to a program of deregulation, then I have no problem. But, if the proposed amendment at the appropriate time will certainly go into — right in Section 1, in the Declaration of Policy, that is where it will be.

If any form of commitment to deregulation or that word is placed in Section 1, I think it will take us a few days to debate that point, Mr. President.

Senator Alvarez. Yes, Mr. President. Then, the Gentleman's recommendation for a caucus would be the wisest step at the appointed time.

Senator Maceda. Thank you, Mr. President.

Senator Shahani. Mr. President.

The President. Senator Shahani is recognized.

Senator Shahani. Thank you, Mr. President.

First of all, Mr. President, I just would like to make the clarification that this Representation is a Member of the Committee on Public Services.

Senator Alvarez. Mr. President, the Committee is very much honored that the Lady Senator from Pangasinan and greater Manila area is a member of the Committee.

Senator Shahani. But, this is not indicated in this Committee Report. I have verified it. I just like to assure the Chairman that this was just an oversight on the part of the Secretariat.

Senator Alvarez. This is pure and simple clerical oversight, and we are overjoyed to be corrected by the Gentle Lady from Pangasinan.

Senator Shahani. Mr. President, I share the concern of Senator Maceda that there should be a greater clarification on the issue of deregulation. I just would like to clarify whether it is the intention of the Sponsor to put here, maybe, in the Declaration of Policy whether there should be a mention of deregulation or not. Is that the intention, Mr. President?

Senator Alvarez. Our intention here is to mention a policy towards deregulation. It is not our intention to state a high-bound rule on a program deregulation, Mr. President. That flexibility will be left partly to the temper of the times, and to the advise of a council which we have organized under this bill from the private sector and from the decision of the President.

Senator Shahani. I see. So, that is still subject to further discussion. Am I correct, Mr. President?

Senator Alvarez. Mr. President, what we have intended to put would be along the line of an encouragement towards a more active private sector participation. So, it will not be an article of faith to deregulate at a given time, at a given point, Mr. President.

Senator Shahani. Thank you, Mr. President.

Mr. President, I am also concerned that in the definition of the powers and functions of the Department of Energy which appears on Section 4 there is, of course, emphasis on exploration, conservation, and utilization. But throughout the entire section, there is really no mention of environmental protection. Yet I know that this should be the concern of the Department of Energy as it continues with exploration since we are dealing here with fossil fuels with nuclear energy. But there seems to be no mention

of the responsibility of this important department in the area of environmental protection.

Senator Alvarez. Not in the enumeration of powers or responsibilities of the Secretary for, after all, we vest that power in another department, the Department of Environment which will have some kind of an adversarial relationship in the exercise of the functions of all other departments affecting environment.

However, we have a proposed amendment which takes cognizance of the need for a preferential bias for environmentally friendly and indigenous sources of energy as part of the mandate in the preparation of the Philippine energy plan. There is already, in this proposed bill, a statement to that effect as well as in enumerating the responsibilities of the Assistant Secretary for Energy Policy Program Planning and Monitoring. So that, if I may take the distinguished Senator's attention to page 4, line 9, there are these mentions of concern for environment, line 5 and line 9, enhancing environmental quality and assuring public health and safety.

So, it is not altogether a bill of total indifference to our concern for environment, Mr. President.

Senator Shahani. Mr. President, this Representation would like a clearer definition of its stand on environmental protection, because he said earlier that there could be a confrontational relationship. I think, precisely, this is what is happening.

For instance, we know that NAPOCOR has already planned to develop the coal mines in Masinloc and also in Sual, Pangasinan. There is a proposal to explore the coal mines there and yet, Mr. President, the environmental implications are of such magnitude that the citizens themselves are now protesting against this.

But it is a conflict because we will need the energy which can be provided by the development of these coal mines, and yet there is the environmental implication.

So, I think it is not just a mention *en passant* or in passing, Mr. President, but there has to be, I would say, an affirmation that this department will be bound by the policies of the government as far as environmental protection is concerned.

Senator Alvarez. We can state here our concern for the environment. We can state here our preferential bias in crafting a program to defend and protect the environment, Mr. President.

But I wonder whether we should state here that this department will craft the rules and regulations, for instance, to curb pollution. Because the levels or the standards of protecting the environment is a very dynamic standard, and we should leave it to a body that

will have to be equipped with both the social and the technical information in setting these standards.

Standards may have to be raised at a given point, and when we confront that issue, it will be for that particular role addressing the environment where we will have to input the rules and guidelines for the defense of the environment.

But suffice it to say that here, we are not closing our eyes to environmental values and efforts of conservation because there are in the bill, as I have told the Gentleman, Mr. President, statements on environmental protection. And there are proposed amendments, at the opportune time, also to strengthen statements for environmental protection.

Senator Shahani. I am glad to hear that, Mr. President. I think this would be an important component of this bill.

I also would like to inquire, Mr. President, especially under Section 4 again, whether the Sponsor is envisaging — when we talk about the role of the private sector especially in the areas of exploration — only of the multinationals or the big companies, or whether we are also giving a role to small-scale exploration.

I am thinking, Mr. President, that there are small deposits of gas and oil scattered throughout the country, and the exploration in this regard could be undertaken by people who are knowledgeable but who are really small-scale entrepreneurs.

I would like this principle to be accepted in this bill, Mr. President, because I do not think we should look at energy exploration only in terms of big business or the multinationals. But we should give a chance to our people in relation to the resources of this country, because there are smaller scale deposits which can be, indeed, explored, but no encouragement so far has been given in this regard by our government. And I think this is an oversight which needs to be corrected.

Senator Alvarez. Mr. President, the Office of Energy Affairs, which is integrated into this bill, has already set the rules. And, unfortunately, in matters of petroleum exploration for a well, the demand or the cost is easily \$8 million per well. So, in matters of exploration, the economics of exploration may determine the participants of the exploration.

However, I wonder whether in the law of the Gentle Lady, Mr. President, on small-scale industry on countryside development, this has been provided that even small companies with lesser capital could participate in lower cost exploration. Then it will not collide with this bill; it cannot collide with this bill.

So, it does not state, one way or the other, the smaller investors but the cost of the exploration, Mr. President. The sticking point actually is that, it is so costly and it is so difficult to bring in the groups that are prepared to spread out these gigantic amounts of money to undertake exploration.

Senator Shahani. Precisely, Mr. President, I submitted a resolution to this effect at the last Congress to encourage this kind of small-scale exploration. It is not really expensive because these deposits are very shallow. And I have it from good authority from the Bureau of Mines that we do have such deposits scattered throughout the country, and I am hoping that this newly-formed Department of Energy will look into this potential in our country.

Mr. President, may I know what would be the relationship between the Department of Energy and the PNOC? As we know, the PNOC has certain functions at present which might be taken over by this Department of Energy. What would now be the real function of the PNOC as it comes under this proposed department?

Senator Alvarez. The PNOC, as a corporation, Mr. President, will remain intact, but it will be attached to the Department of Energy. Because of this, there will be an oversight and review from the Secretary of Energy over decisions of the PNOC. In the process, the Department of Energy will be able to discharge its responsibility of integrating the activities of PNOC which has something to do with the exploitation and exploration of sources of energy, the management of service contracts, and even the importation and marketing of petroleum products.

So, the PNOC, as a vital component in the total energy exploration and production process, will be put alongside the other agencies of the government in providing for a coherent program on energy.

Mr. President, may I mention at this point that the PNOC would be left to its own devices and its own vision of what its responsibility is so that a corporate organization like that would be concerned on its ROI. In the process, its mandated responsibility of doing exploration and harnessing of energy resources may be hampered precisely because of its concern as any corporate structure can be on an ROI. However, put under the mantle or under the wings of a huge organization which has a responsibility to the greater national interest, broader than an ROI of a corporate structure, the PNOC then could be integrated and its functions rationalized.

Mr. President, one of the problems on the failure to come up with the power systems needed that brought about the brownouts was that PNOC could not be mandated by NPC, and NPC was in a rush in harnessing geothermal plants. If we have them under the

direction of a higher authority who will define the national interest, these agencies can be harmonized so that PNOC will not say, "Wait a minute. Before I do the exploration, let me look at my ROI."

The Secretary of the Department of Energy may come forward and say, "Let me know what your ROI is. Do your exploration because NPC needs to harness the plants and we need them to produce the energy."

There was no such authority, Mr. President. At a given point in time, since we took power after EDSA, there is no such authority. So each corporate giant was left to its own devices, making us all the victims of brownouts.

Senator Shahani. So, in effect, this proposed bill would now limit the mandate of PNOC.

Senator Alvarez. It might broaden the mandate of PNOC, Mr. President, depending on the national need which will be harmonized with the other agencies now to be attached. But the distinguished Senator may also be correct. We may even have to limit its mandate at a given point.

Senator Shahani. Mr. President, we are talking about deregulation. In other words, we want now the energy issue to be deregulated to the private sector. Since the ERB will be under the jurisdiction of this proposed Department of Energy, how do we reconcile the functions of the ERB in this regard?

Senator Alvarez. This is one of the debating points that I hope we will be able to obviate later on during the period of amendments, Mr. President. The proposal under this bill is to put it under the administrative supervision but not to control its decision. It is just to put it under its administrative supervision in order to have the ERB sense the policy direction perhaps under the Department. It is not to control it because the decision of the ERB may only be appealable to the Supreme Court. So it will still be an independent pricing body.

Senator Shahani. And that will not affect the policy of deregulation of the Department.

Senator Alvarez. Mr. President, it will affect because the declared intention of our government under the leadership of our President is to allow the participation of the private sector in greater part of our economic life in the diminution of government intervention.

So we hope that at some future point — although we will try to avoid mandating it categorically in this bill — the policies which will be adopted toward deregulation will have some influence on the policy directions as well of these agencies.

Senator Shahani. Mr. President, I would like to come to another body which will be attached to this Department, and it is the Council of Energy Advisers.

Section 13 says that this Council, composed of major sectors of private industry, shall advise the President on the overall energy problem. But what is the exact relationship of this Council to the Department? Since they go directly to the President, is the Secretary a member of this Council? And since they are mainly members of the private sector, what is the intent here? Are they speaking for themselves? Are they bound by the Department?

Senator Alvarez. Mr. President, this provision is an acknowledgment of our growing sympathy for deregulation and privatization of this sector and many sectors of our economic life. We acknowledge that already. We will take note of the public pulse by having a Council of Advisers which will now advise the President on the overall energy program, especially on the private sector initiatives and proposals.

However, over and above this, we are going to propose — and be a little more definite on the time frame — that the Council shall study and recommend to the President the eventual deregulation of the energy sector. It will be eventual which means that the President will take the measured steps necessary toward that goal.

Senator Shahani. And is the Department involved in this Council of Energy Advisers so it can bypass it?

Senator Alvarez. Mr. President, the Secretary is an alter ego of the President. So we are hoping that if the President feels that necessary measures must be taken, in the same manner that he has sent us this certified proposal, he will take the necessary steps to undertake the formal deregulation.

Senator Shahani. Mr. President, maybe in the period of amendments, I would like to see something more definite on Section 13. This is all I would like to say at this stage, but I still would like to reserve my right for further questions later on.

Thank you.

Senator Alvarez. Thank you, Mr. President.

The President. All right. In the order that they claimed recognition, the Chair will recognize the following: Senators Roco, Revilla, Guingona, Webb, and then finally Senator Lina.

Senator Roco. Thank you, Mr. President. May the Gentleman yield?

Senator Alvarez. With pleasure, Mr. President.

Senator Roco. Mr. President, I have been wondering if we need to act on this bill at all. I understand it is certified as urgent by the President. But the President has issued Administrative Order No. 2. It created a Coordinating Intelligent Agency. The President has issued Administrative Order No. 4. It created a negotiating panel.

So, if it is truly urgent, Mr. President, may the Gentleman consider recommending that the President just act according to administrative order? Since there is apparently sufficient power in the President to create agencies, would that be a possibility?

Senator Alvarez. Yes, but that would be a very lame response, because obviously from the contingencies of what must be done, some form of Legislative intervention is needed, and the Legislative intervention is the creation of this Department.

Senator Roco. When we listened also to the President, there had been a declaration of policy to streamline the bureaucracy, and to make efficient the workings of the government organization. In fact, we are even informed that potentially 75,000 civil servants may be cut.

If this is an objective of the administration, why do they certify to the need for a new agency? If they want to streamline, it seems that the indicated course of action is to have less, not more. But why, particularly, another agency when it is within the powers of the Office of the President to perform all of the powers here so far?

Senator Alvarez. Mr. President, without being pretentious about it, that is, precisely, the Gentleman's argument. Perhaps, the compelling need to organize this new department is really far more compelling than the compelling need to streamline the bureaucracy. Sure, there is a need to streamline the bureaucracy and cut personnel, but there is a greater need to organize a Department of Energy. That may be the logic built into this proposal.

Senator Roco. Yes, that is very well-put, Mr. President. In fact, there may be things here that cannot be done by the President at this time, would that be correct?

Senator Alvarez. Yes, that is correct, Mr. President. I think that it is such a crucial and a vital question that it requires broader public participation, and "public" meaning the Senate which represents a bulk of public interest.

Senator Roco. Yes. Could a secretary of this new department — if this becomes a law, for instance — allow entry of nuclear wastes and their disposal into the Philippine territorial limit, for whatever purpose, since the secretary as described here will have

supervision and control over all matters affecting energy? Would this be within the powers of the secretary, Mr. President?

I am really quoting from Section 2 of Republic Act No. 6969.

Senator Alvarez. No, Mr. President. There is a specific restriction on that, and I do not think even the secretary of a newly organized department can violate that restriction, specifically Republic Act No. 6969, Section 2 (i), which bars entry of nuclear waste.

Senator Roco. So, can we say, Mr. President, that the prohibitions under Republic Act No. 6969, especially under Section 13 (d) remain, and there is no intention to modify any of these prohibitions by approving this bill on the Department of Energy. Would that be a fair statement, Mr. President?

Senator Alvarez. That is a statement, Mr. President.

Senator Roco. Yes. There is one other concern, Mr. President.

Under Administrative Order No. 4 which constituted the negotiating panel on the nuclear power plant, the panel was directed to continue negotiating to seek implementation of four areas in the Settlement Agreement. And in the Settlement Agreement, Mr. President, there was an undertaking by the Republic of the Philippines to approve enabling legislation, precisely, to allow Westinghouse to operate the nuclear plant.

Would there be anything in this bill that will satisfy that undertaking to approve an enabling law to allow the Westinghouse to operate the nuclear power plant?

Senator Alvarez. I do not think so, Mr. President. That would be stretching too far this incidental proviso.

The issue of the harnessing of the Bataan Nuclear Power Plant is such a central policy issue, and it must be confronted categorically with categorical policy directives by this government. And with the participation of this Congress, we cannot handle that by indirection.

If we should approve it, if we should allow the operation of the Bataan Nuclear Power Plant — heaven forbid that we do not do and I am against the nuclear plant — if we do approve it, Mr. President, there is nothing in this bill that could bar its operation. There is nothing in this bill that could validate it.

If we do not approve it because we must confront that issue, there is nothing in this bill, with this referral to nuclear fuel, that could validate the nuclear proviso in any way.

Senator Roco. I am glad to hear that, Mr. President. In fact, I do remember the eloquent statement of the Gentleman — I think when we were campaigning — when he called this nuclear plant a “monstrous folly” and we still share the description.

So, do I take it, Mr. President, that Section 4.3 which refers to establishing and administering programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of energy resources from fossil fuels such as petroleum, coal, natural gas and liquids, nuclear fuel resources, is not meant to allow the implementation of the Westinghouse plant?

Senator Alvarez. I am glad, Mr. President, that the Gentleman has stated that into the *Record*, because I do share that bulldog tenacity of preventing the opening of that nuclear plant.

Senator Roco. And could we also say, Mr. President, that Section 4.4, as it refers to nuclear fuels, which allows again marketing, utilization, distribution, seems to conflict in words, at least, to the words of RA No. 6969? That Section 4.4 likewise is not meant to either modify RA No. 6969 or to allow Westinghouse to operate the nuclear plant.

Senator Alvarez. Categorically, Mr. President, they can coexist. It will modify RA No. 6969. And, at the same time, I do not believe that this indirect reference to a nuclear plant, this minor enumeration of nuclear fuel will authorize the Bataan Nuclear Power Plant operation.

Senator Roco. Mr. President, should there be need of clarifying that that is the intent? Would the Gentleman be averse to such clarifications or will we consider modifications later on?

Senator Alvarez. No, Mr. President. I have no objection to that, if it should reassure all of those who hold the same view that the nuclear plant is such a threat and it should not be brought in through the back door, in any way.

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

Just one other point. In the World Commission on Environment and Development — which the Gentleman — I have heard him discuss this before — there is reference, Mr. President, to renewable energy as the foundation for global energy structure in the 21st century. The renewable energy mentioned, Mr. President, are resources, such as solar, biomass, small hydro, wind, and other nonconventional energy systems.

Would the Gentleman just indicate, because I could not find them in the bill, whether renewable energy may, in fact, be a direction that we want to suggest as a policy objective? Should we, in fact, approve the organization of a Department of Energy?

Senator Alvarez. Mr. President, there are references to it, but it does not spell it in detail. Because the reference is only nonconventional energy. As I have pointed out in previous interpellation, there are references to conservation and the environment. As a matter of fact, in order to enhance a stress on this growing and strengthening value of protecting the environment, we are going to introduce some more amendments to this effect of strengthening a preferential bias for environmentally friendly sources of energy and indigenous sources of energy.

Senator Roco. So, Mr. President, on that basis, if this will not be used as the consultation process, so-called, under the Settlement Agreement on the Westinghouse Nuclear Plant, if this will not be used to implicitly or expressly modify Republic Act No. 6969, as clarified by the Chairman, and if this will then direct the development of renewable energy sources, then I can see my way clear to being persuaded to act on it.

Senator Alvarez. Welcome to the nonconventional energy source club.

Senator Roco. Thank you, Mr. President.

Senator Revilla. Mr. President.

The President. Senator Revilla is recognized.

Senator Revilla. Mr. President, will the Gentleman from Isabela yield to some clarificatory questions?

Senator Alvarez. With pleasure to the Gentleman from Cavite.

Senator Revilla. Thank you, Mr. President.

Section 2 (a) of the proposed bill defines “Department” as the Department of Energy. Am I correct?

Senator Alvarez. The distinguished Gentleman is correct, absolutely correct, Mr. President.

Senator Revilla. The bill also mentions bureaus and divisions as the organizational units of the Department. Am I correct?

Senator Alvarez. The distinguished Gentleman is correct, and besides, it indicates that he did a thorough analysis of this proposed measure.

Senator Revilla. Am I also correct, if I say that there is only one head of the Department.

Senator Alvarez. The Gentleman is correct again, Mr. President, and we want to strengthen that head of the Department.

Senator Revilla. And that the only head of the Department is officially called the Secretary of the Department. Am I correct, Mr. President?

Senator Alvarez. The Gentleman is correct, absolutely correct.

Senator Revilla. Mr. President, under Section 22 of the bill, page 8, line 34, there is a phrase "heads of the Department," giving me the impression that, aside from the Secretary, there are other heads of the Department. May I know from the distinguished Sponsor who are the heads of the Department referred to in this phrase.

Senator Alvarez. Mr. President, would the Gentleman allow me to peruse over this phrase so that I can match the assiduous study that he had on it, and perhaps give him a more thorough answer.

Senator Revilla. That is all. Thank you, Mr. President.

Senator Alvarez. Mr. President, let me give the Gentleman the answer. I think the distinguished Gentleman is correct in his observation.

We will introduce the appropriate amendment. There is something lacking here. Because this suggests that there are several heads, but it should read "heads of offices of the Department." The Committee is very grateful for this clarification.

Senator Revilla. Thank you, Your Honor, and thank you, Mr. President.

The President. Then we have Senator Guingona.

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

Senator Alvarez. With pleasure, to the Minority Leader, Mr. President.

Senator Guingona. The bill under consideration seeks to ensure the integrated and comprehensive exploration, development, management, sustainable use, renewal, conservation of the country's resources, is it not?

Senator Alvarez. That is right, Mr. President, from exploration to utilization of energy resources, and even the importation of energy products.

Senator Guingona. And in the process, we solve the nagging brownouts and blackouts that we still suffer from?

Senator Alvarez. Yes, Mr. President. It will not immediately solve this problem, but, in the long run, it could provide the enduring mechanism, so that we will always be in a position to manage this problem and avoid it, as we have not done.

Senator Guingona. Assuming that we enact this measure, and the NAPOCOR adopts a fast-track program which is as burdensome as some of the charges filed by the distinguished Sponsor, the fast-track program is overly expensive and the secretary of this new Department says, "That cannot be done," would that be possible under this bill?

Senator Alvarez. It would be possible, Mr. President.

Senator Guingona. But under the Sponsor's proposed bill, the secretary only has supervision and not control. Can the NAPOCOR not act within its Charter?

Senator Alvarez. Mr. President, at some point during the period of amendments, we are going to strengthen the power of the Secretary over the attached agencies.

Senator Guingona. So that, under the Sponsor's proposed amendment to his proposed bill, we will give the secretary control and supervision over the NAPOCOR, would we not?

Senator Alvarez. Yes, Mr. President.

Senator Guingona. And control means changing the judgment of the Corporation concerning everything and anything about energy.

Senator Alvarez. That would be the net effect, Mr. President.

Senator Guingona. If the NAPOCOR, therefore, increases by a board resolution the power rates for the consumers, the secretary of Energy can deny the same and say, "This power increase is unjustified and the power rates will remain the same."

Senator Alvarez. Mr. President, that will not be under the jurisdiction of NAPOCOR.

Senator Guingona. The increase of power rates is not within the jurisdiction of NAPOCOR?

Senator Alvarez. There are other regulatory bodies that will impact on this, Mr. President. However, the Gentleman is correct in saying that the secretary will have the power of review and set aside the decision.

Senator Guingona. Under the present system, who determines the power rate increases? Is it not NAPOCOR?

Senator Alvarez. That is true, Mr. President.

Senator Guingona. Under the present Charter, is it not NAPOCOR alone which determines the power rate increases?

Senator Alvarez. That is correct, Mr. President, in formal terms. But the Gentleman and I know that when they do come to certain power rates arrangement, mechanism of the government comes into play. In the proposed bill that we have, we were recommending that the secretary may revamp and reorganize the board of the attached agencies.

Senator Guingona. We are not going to that yet, Mr. President.

I am only clarifying whether, under the present system, it is NAPOCOR who fixes the power rates.

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

Senator Guingona. Therefore, under the Gentleman's proposal, since he will introduce an amendment for the secretary to control and supervise the NAPOCOR, the fixing of power rates will then be subject to the secretary's discretion. Would that be correct?

Senator Alvarez. That would be correct, Mr. President.

Senator Guingona. Therefore, this will involve changing the charter of NAPOCOR, will it not?

Senator Alvarez. In effect, Mr. President, this will be an amendment to the charter.

Senator Guingona. If NAPOCOR unduly delays the bidding process, the Secretary of Energy can take steps to have the bidding process for a power plant expedited?

Senator Alvarez. The Gentleman is correct, Mr. President, and other indirect powers would also be put into operations.

Senator Guingona. If NAPOCOR undertakes the purchase of gas turbines without bidding, as has been done in the past, the Secretary of Energy can step in and rectify the anomalous practices.

Senator Alvarez. That is correct, Mr. President.

Senator Guingona. In other words, the secretary is the captain ball of that Department during this calamity crisis.

Senator Alvarez. That is correct, Mr. President.

Senator Guingona. When the National Electrification Administration continues to allow electric cooperatives to be mismanaged, the secretary can intervene and take the necessary steps to correct the inefficiency of some of the cooperatives.

Senator Alvarez. That is correct too, Mr. President.

Senator Guingona. In instances, for example, where industrial zone is set up and the Secretary of Energy desires direct connection, in spite of the charter of the cooperatives to be the distributor so that they can act as the intermediate distributors, the Secretary of Energy can take the proper action.

Senator Alvarez. Yes, Mr. President.

Senator Guingona. When the PNOC, for example, decides not to go ahead with the geothermal development in Mt. Apo, the Secretary of Energy can direct that the PNOC implements the geothermal project in Mt. Apo.

Senator Alvarez. That is correct, Mr. President.

Senator Guingona. In other words, the distinguished Sponsor will introduce an amendment that will give control and supervision over NAPOCOR, over NEA and over PNOC, at least, for the period of this energy calamity or emergency until, perhaps, the energy crisis is resolved.

Senator Alvarez. That is right, Mr. President.

With the permission of the Gentleman, may I take this opportunity to explain the policy consideration for this.

We will now cite the accountability for energy distribution and its efficiency with a political officer. Political because he is an extension of the personality of the highest elective official of the land. And when we do have a political officer, he will have this accountability to the nation.

Whereas, it is possible that entities like NAPOCOR, PNOC, do not think of their constituencies as the whole nation; yet, they have to serve the whole nation. They have a responsibility to a charter. Since they are corporations, they behave like a corporation protecting their corporate turf. Sometimes, they have become indifferent to the national demand or the national need.

So by putting them under the wings of a department, under the leadership of a politically accountable officer, then, these agencies will now be made responsive to the broader social need of the nation. That is the intention, hopefully, for the introduction of these amendments, Mr. President.

Senator Guingona. So that is clear. Under the proposed measure tucked on by a proposed amendment, we will have a Secretary of Energy who will have control and supervision over the NAPOCOR, the PNOC, and the NEA.

There is a proposed section in the bill which authorizes the department to reorganize and revamp the PNOC, the NPC and the NEA. Is this necessary?

Senator Alvarez. Mr. President, the Gentleman and I have tangled with these institutions, and we have criticized them in many difficult situations.

I investigated these institutions, especially the NAPOCOR for ten months, and we even covered many areas where there should have been immediate changes in the implementation of policy.

Senator Guingona. Is this legal? If it is necessary, is it legal since the Gentleman does not provide any guidelines? Under this bill, we delegate the authority to revamp and reorganize without criteria, without standards. Would this be legal or could it be questioned later on?

Senator Alvarez. Mr. President, I think we can invest this power. We are, as a matter of fact, providing that they be attached to the department. If we give the plenary power to the department head in the manner that the department exercises its functions...

Senator Guingona. How many officers and personnel does the NAPOCOR have, Mr. President?

Senator Alvarez. Not the personnel. Only the Board of Directors are being proposed here, Mr. President.

Senator Guingona. I beg the Gentleman's pardon?

Senator Alvarez. Not the whole personnel structure, but only the Board of Directors.

Senator Guingona. So the reorganization and the revamp will only be limited to the Board of Directors of NAPOCOR?

Senator Alvarez. Board of Directors and the chief executive officer, I believe, is the proposal.

Senator Guingona. How about the PNOC?

Senator Alvarez. Likewise, Mr. President.

Senator Guingona. How about the NEA?

Senator Alvarez. Likewise, Mr. President.

Senator Guingona. So this would mean an amendment to their charters?

Senator Alvarez. Yes, Mr. President. In effect, it will be.

Senator Guingona. We do not say how many directors there will be. We do not say whether there will still be a chief executive officer. We do not say whether there will be a vice-chairman. We do not say how and when, and to what extent this revamp and reorganization will be.

Senator Alvarez. We are not changing the number of the Board of Directors, Mr. President. We are only giving the power to change the personalities.

Senator Guingona. In other words, we are authorizing the secretary to declare the seats of the different Boards vacant?

Senator Alvarez. To declare vacant and to recommend to the President their replacements.

Senator Guingona. Would that be legal?

Senator Alvarez. I believe so, Mr. President. I think it is within the competence of this Body to....

Senator Guingona. It is still a reorganization, and I think it is a delineation of power which would be provided with sufficient standards. Otherwise, it may constitute....

Senator Alvarez. We will clarify this at the opportune time, Mr. President, and perhaps have a clearer statement here that upon the organization of the department, the Secretary may recommend, reorganize or revamp the Board of Directors of the attached agencies.

Senator Guingona. Are they not considered appointees protected by fixed tenure and removable only for cause?

Senator Alvarez. I do not believe so, Mr. President.

I do not think the Charter provides any safeguards. We have looked into that. They are at the pleasure of the appointing power, which is the President.

Senator Guingona. The measure does not place the Atomic Energy Commission as an attached agency. Does it?

Senator Alvarez. No, it does not, Mr. President.

Senator Guingona. The measure does not also include the Committee on the Bataan Nuclear Plant under the department. May we know the reason for this?

Senator Alvarez. The Atomic Energy Commission has research function, and it is not a fuel supplying or energy generating entity.

Senator Guingona. But it decides on vital uses of energy. It is a quasi-judicial body that could shape directions concerning the peaceful uses of atomic energy.

Senator Alvarez. Yes, Mr. President. But it has more of a research and a scientific mandate, that is why it is attached to the Department of Science and Technology.

Senator Guingona. During the period of amendment, will the distinguished Sponsor agree to having this Atomic Energy Commission attached?

Senator Alvarez. I think with very, very grave hesitation, Mr. President, if ever we will accept that. Because the nuclear energy issue must be given its full play of debate. It should be discussed in that particular arena since it is already an arena which has become very hot and controversial.

If we will include it in this measure, I do not think it will do justice to the issue.

Senator Guingona. Mr. President, I cannot find the exact provision in the measure; it also makes the Secretary of Energy a member of NEDA. Is that correct?

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

Senator Guingona. Would that not, in effect, amend the Charter of NEDA?

Senator Alvarez. No, Mr. President.

As a matter of fact, the membership there is on a Cabinet level and it is chaired by the President. That is to give it a comprehensive view on the total economic planning program.

Senator Guingona. Yes, but nowhere is there a membership for the Secretary of Energy.

Senator Alvarez. Mr. President, we are making it here now, so that is even made more clear.

Senator Guingona. Would this not therefore constitute two subject matters — one, creating the Department of Energy and another, amending, in effect, the NEDA composition?

Senator Alvarez. No, Mr. President. We are only defining the function of the Secretary of the Department of Energy.

Senator Guingona. We are making the NEDA a member of NEDA.

Senator Alvarez. We are making the secretary a member of the NEDA Board, and there is nothing in the NEDA rules that inhibit — as a matter of fact, there is everything to accommodate the participation of a Cabinet level official in the NEDA Board.

Senator Guingona. No, there are fixed memberships in NEDA, and no membership for the Secretary of Energy.

So this would mean changing NEDA, and I am afraid this bill will be questioned, that there are two subject matters.

Senator Alvarez. It is highly relevant, Mr. President, because in the preparation of the long-term programs, the medium-term program, for instance, the question of energy is a vital issue, a vital component. We cannot go ahead and plan for economic development until we are able to put to rest the problem of planning on energy. It goes without saying that if we create the department, then the head of the department must participate in the planning mechanism.

Senator Guingona. He will be in the NEDA as an ex officio member?

Senator Alvarez. We are making him a member of the Board, Mr. President.

Senator Guingona. Not in an ex officio capacity?

Senator Alvarez. Not in an ex officio capacity, so he can have full vote and full participation.

Senator Guingona. Which is even worse because he is a member of the Cabinet inhibited by the Constitution from occupying other positions.

Senator Alvarez. Mr. President, this is a position that grows out from the mandate to exercise his office and this is not part of those that are inhibited by the constitutional provision.

Senator Guingona. Yes, but the distinguished Gentleman just said that he would not be an ex officio Cabinet member.

Senator Alvarez. Mr. President, I do not really see the legal impediment, at this point, to that membership. If the distinguished Gentleman is strongly convinced, perhaps, with some hesitation we can consider his proposed amendment.

Senator Guingona. The Energy Regulatory Board (ERB) is supposed to be an independent body, is it not?

Senator Alvarez. Yes, Mr. President.

Senator Guingona. The distinguished Sponsor believes that it is being attached to the Department of Energy with administrative supervision over that agency, will it not impair the independence of the members of the Board of the ERB?

Senator Alvarez. I believe, Mr. President, that it will not. That is a matter of personal evaluation.

Senator Guingona. If we trace the history of the ERB, it was the former Public Service Commission, was it not?

Senator Alvarez. That is correct, Mr. President.

Senator Guingona. And it was attached to the Department of Justice, was it not? And there was no administrative supervision over the same. It was just attached.

Senator Alvarez. That is correct, Mr. President, yes.

Senator Guingona. Can we not do the same here and just attach the ERB without administrative supervision?

Senator Alvarez. Let me, at this point, stand by what is provided here; but if the Gentleman sufficiently convinces this Representation, I do not really have an inflexible attitude towards this particular provision.

Senator Guingona. What will happen to the Office of Energy Affairs?

Senator Alvarez. That will be integrated, Mr. President. Its personnel and its resources will be integrated into the new department?

Senator Guingona. May we know how many officers and personnel belong to the Office of Energy Affairs?

Senator Alvarez. There are about a hundred and fifty officers, I believe.

Senator Guingona. Would they automatically be absorbed by the new Department of Energy?

Senator Alvarez. There is a provision, Mr. President, which states that we shall give them preference in the hiring.

Senator Guingona. So that some of them, most of them or almost all of them could lose their employment.

Senator Alvarez. Yes, Mr. President. This is in Section 19, page 8, lines 11 and 12. Because in the new department the

expertise and the experience of these personnel will be very much needed, because the functions of the Office of Energy Affairs has been assimilated into the mandate of the new department.

Senator Guingona. If they are needed, why do we not absorb them in the new department?

Senator Alvarez. Mr. President, absorbing may hinder the flexibility of the new leadership in the department, because absorption would imply an automatic assimilation. Whereas, the functions, although they have been taken into the new department have been distributed to new assistant secretaries, and as such, the functions have been dispersed in the restructuring of the new department.

It may be difficult, if we just say "absorb," because absorption means taking lock, stock, and barrel titles, prerequisites and all. So, they should be given preference because then, we will allow some level of executive decision on the location of the personnel coming from the old agency.

Senator Guingona. What will happen to those who are not taken in?

Senator Alvarez. I have a proposed legislation, Mr. President, that all those who are displaced in the reorganization process should be protected with sufficient guarantees on separation pay, et cetera.

Senator Guingona. May I go to the multi-sectoral task force or Council of Energy Advisers with five members. Who would be the chairman? Who would be the appointing power? The secretary, the president, the undersecretary?

Senator Alvarez. The President, Your Honor.

Senator Guingona. There is nothing in the provision, Mr. President.

Senator Alvarez. "The President shall convene the council within 30 days upon approval of this Act."

Senator Guingona. Yes, but who appoints them?

Senator Alvarez. It is the President who will appoint them, but with the injunction that there should be a balanced representation.

Senator Guingona. So, it is the President who appoints them.

Senator Alvarez. Yes, Mr. President.

Senator Guingona. For how long will they serve?

Senator Alvarez. The proposed amendment we have, Mr. President, is that they should be there for five years, at least.

Senator Guingona. Five years.

Senator Alvarez. Yes.

Senator Guingona. Will they be accountable?

Senator Alvarez. They are going to be the Council of Advisers from the private sector of the President.

Senator Guingona. Will they receive compensation?

Senator Alvarez. Since they are representing and they will be like the NGOs, Mr. President, they are only a council of advisers. There is no provision for representation.

Senator Guingona. I am asking this, Mr. President, because we have already started the deregulation process, and we have already allowed private entities to generate, and even to a certain extent, I understand, distribute power. Now, we will have a group of private individuals sitting as advisers. I am asking whether they would be held accountable and to whom.

Senator Alvarez. The system of political accountability here will have to fall on the shoulders of the President, because it is he who will take the advise. But, this Council of Advisers who will represent the private business sector will be accountable to their constituents, which are the private business sector.

This is a purely private initiative, in accord with the temper of the times where we have NGOs and all manner of private participation in government decision-making.

Senator Guingona. May I direct the attention of the distinguished Sponsor to Section 19.

Senator Alvarez. Section 19, Mr. President?

Senator Guingona. Yes. It mentions priorities or preference extended to the personnel of the Office of Energy Affairs and Energy Coordinating Council. It does not mention the ERB. Are we to assume that all the employees of the ERB, Energy Regulatory Board, will be absorbed in this new department?

Senator Alvarez. Yes. The ERB is left intact, Mr. President. As a matter of fact, its independence is guaranteed. Decisions of the ERB are only appealable to the Supreme Court, as provided.

Senator Guingona. Now, we come to appropriations. How much is the appropriation intended for this department?

Senator Alvarez. Section 21, Mr. President, answers that. For the first year, the initial organization, the unexpended funds of the Office of the Energy Affairs, after that from the General Appropriations Act. So, if we are able to approve this on time, even if we are not able to, Mr. President — of course, the appropriation has already been submitted by the President — I think the new organization will fall back on the unexpended balance of the OEA.

Senator Guingona. How much is the unexpended balance of the OEA?

Senator Alvarez. I do not know, Mr. President. To tell the Gentleman frankly, I do not know how much money they have there. I think they have a budget of about P200 million.

Senator Guingona. Two hundred million.

Senator Alvarez. No, one hundred fifty, which roughly measures up to the collection of service fees.

Senator Guingona. Can the distinguished Sponsor tell us how much we are presently earning from the exportation of oil?

Senator Alvarez. I can tell the Gentleman our oil boom, but I do not know the exportation.

Senator Guingona. I am asking this because in the appropriations, Mr. President, we will have to reckon how much is the appropriation of the NAPOCOR, how much is the appropriation of the PNOC, how much is the appropriation of the NEA, how much are the grants, how much are the incomes of the Office of Energy Affairs, how much is the income derived from oil exploration and exportation, if any, so that we will have an idea whether we are funding the Department adequately or not.

Senator Alvarez. I can tell the Gentleman, Mr. President, that OEC generates about P200 million from the service contracts. And we estimate — we sat down with some people on this — that the budget for this new Department would be somewhere in the vicinity of P300 million. This is not going to be bigger than the Department of, let us say, Agrarian Reform which has a budget of about P350 million. The Department of Agrarian Reform is a regional outreach in all the different regions of the country up to the municipal, and even the barangay levels.

So, P200 million, Mr. President, from what is generated in terms of service contracts, we may add another P150 million and we will have the total budget of the new Department.

Senator Guingona. That will be P450 million?

Senator Alvarez. Roughly P350 million, Mr. President.

Senator Guingona. Three hundred and fifty million?

Senator Alvarez. Or may be less, yes.

Senator Guingona. But does that include the exportation of oil?

Senator Alvarez. We have not gone to that detail, Mr. President.

Senator Guingona. Does not the Gentleman think, Mr. President, that it would be wise, while we are considering this, to know exactly how much we are exporting, how much we are earning from that source, so that we will know whether we are funding this Department adequately or not?

Senator Alvarez. I think, Mr. President, what we should consider is the compelling need to organize this Department. And if so, then we have to generate the funds from whichever source. It will be dangerous if we should only tie it up to the exportation of oil or other earnings from energy products because we are a net importer, as a matter of fact, of petroleum products.

Senator Guingona. Yes. But is there any recommendation, for example, from Malacañang as to how much they intend to budget this Department?

Senator Alvarez. I have talked with the Malacañang representative and they are preparing the staffing pattern, Mr. President. They think that whatever deficit there will be from the funds drawn from the residue of the OEA funds can be complemented from the President's discretionary fund. Thereafter, it will be drawn from the General Appropriations Act.

Senator Guingona. Mr. President, will the energy program be formulated within six months?

Senator Alvarez. Within sixty days from the organization of the Department. Within six months. I think what is provided in the proposed bill is six months, not sixty days.

That is the second mandate or function of the Secretary, function No. 2, to develop and update the Philippine energy program. Said program shall be formulated within six months from the effectivity of the Act and submitted to us in Congress within ten days from its completion and annually thereafter.

Senator Guingona. Can the Department contract loans?

Senator Alvarez. Mr. President, the Department, through the attached agencies, will be contracting loans. As a matter of fact, the personality of the attached agencies which are government corporations are not impaired in any way because of this bill.

The department per se does not contract loans; it is not authorized to contract loans.

Senator Guingona. The department per se cannot contract loans.

Senator Alvarez. Yes, Mr. President.

Senator Guingona. So, it will have to do it through the PNOC, through the NAPOCOR or through the ERB.

Senator Alvarez. Through the PNOC, NEA and ERB, because these entities have juridical personalities.

Senator Guingona. Yes, Mr. President.

Now, the distinguished Sponsor is aware of some charges in the past of importation of petroleum products?

Senator Alvarez. That is PNOC, Mr. President.

Senator Guingona. Yes. Which were allegedly anomalously given so that some officials in the PNOC allegedly received commissions per barrel of oil imported. Is the distinguished Sponsor aware of that?

Senator Alvarez. I am aware of that, Mr. President, but only indirectly. I am not aware of it as a matter of personal and direct knowledge.

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

Senator Guingona. As a matter of fact, the Ministry of Energy was abolished in 1987, was it not?

Senator Alvarez. I think it was abolished even before that, Mr. President, and the Office of Energy Affairs was abolished in 1986.

Senator Guingona. 1986.

Senator Alvarez. Because of the widespread perception or judgment of the Chief Executive then that the Department of Energy had become a milking cow for favored individuals in government. It was very corrupt, so much so that the President had dismembered the different agencies and put under her Office the Office of Energy Affairs.

Senator Guingona. So, what measures, if any, has the distinguished Sponsor introduced to prevent such anomalies from happening again and repeating the same mistakes that the former Ministry of Energy did in the past?

Senator Alvarez. Mr. President, at that point in time, there was really a general atmosphere of exclusive exercise of political power. And in one of these exercises of political powers cited with the Department of Energy, the contract which was entered into by the Minister of Energy in the importation of petroleum products was undertaken without the blessing or the benefit of a Congress, a Senate or a free press, and that may explain the total concentration of power and the total corruption that had taken place during that period, Mr. President.

We have reorganized our institutions so that there will be countervailing forces. Even as we invest full authority of plenary power to run a department to any one secretary, I do not think that secretary could conduct himself as a secretary under the old regime.

Senator Guingona. The distinguished Sponsor has been responsible for many charges against the NAPOCOR. The NAPOCOR is still, according to him, the culprit in many of the anomalies in spite of the presence of the Senate and the House of Representatives. May we know what measures has the distinguished Gentleman taken to ensure that these abuses can be prevented in this measure?

Senator Alvarez. Mr. President, I think there is a momentum of bad habits which is difficult to arrest once this momentum is set into motion. However, we have interdicted this in many situations because of the investigations which have been put into motion by this Representation and by the Gentleman from Mindanao and Manila.

We have effected the reorganization of the Board of NAPOCOR. We have effected the easing out of key officials of NAPOCOR, and there are now pending charges which are being investigated by appropriate government bodies, by the Ombudsman, to be specific, Mr. President.

Mr. President, somehow, the new set of officers are beneficiaries of the cleansing process and there is more openness and transparency in the transactions. I believe that to a great length, to a great extent, the contracts on the harnessing of power has been, in a modest way, free of the debilitating corruption that we have seen in the past.

The distinguished Senator and I are only too aware of the fact that this malignancy of corruption in the bureaucracy cannot be stamped out overnight. However, as long as we try hard to open up the system and allow a better system of accountability, I think we would be able to cut and minimize it to reasonable levels.

Senator Guingona. Mr. President, may we know what is the present program of energy generation and distribution? It is still

the NAPOCOR which generates 90 percent of the energy needs of the country. Would that be a correct statement?

Senator Alvarez. I believe so, Mr. President.

Senator Guingona. And it is still NAPOCOR which sells to all the distributors throughout the country.

Senator Alvarez. That is correct, Mr. President.

Senator Guingona. Would private enterprises be allowed now to come in? And under what guidelines?

Senator Alvarez. Yes, Mr. President, under the BOT Law which we have passed in this Chamber in July of 1990, and under Executive Order No. 215, I believe, which allows energy generation by the private sector, except that the accreditation must be handled by NAPOCOR.

Senator Guingona. That is why the private sector, under the present, still has to sell energy generated through NAPOCOR.

Senator Alvarez. That is right, Mr. President.

Senator Guingona. They cannot sell directly to the consuming public.

Senator Alvarez. That is correct, Mr. President.

Senator Guingona. And is this a good policy? Or does the distinguished Sponsor wish to indicate guidelines in the formulation of the program to the new Department, or are we going to leave it entirely to the new Department to formulate?

Senator Alvarez. I believe that for now they should hold.

Senator Guingona. They should...?

Senator Alvarez. They should hold for now, and if there should be some changes, if there should be some complete deregulation, I think it should be done with the appropriate information and phasing pattern which could be adopted by the Executive through this Department.

Senator Guingona. Concerning the adoption of grids, we still have one national grid as implemented through NAPOCOR. Is the distinguished Sponsor in favor of separating these grids into Mindanao, the Visayas, and Luzon?

Senator Alvarez. Mr. President, I think we are well advanced in unifying the grid system that the advantages, which we can draw from having a unified grid system, offset the disadvantages

which we are feeling at this point, because we have not really set the whole cable and interisland connections to have a working national grid. But if the transmission lines and the cable connections are set, the appropriate energy mix coming from the different parts of the archipelago, I think will justify the rationale for a unified grid.

Senator Guingona. One last point. The obligations already contracted under the different corporations would be assumed by the corporations themselves —

Senator Alvarez. Yes, Mr. President.

Senator Guingona. — and would be continuing obligations, is that understood?

Senator Alvarez. Yes, Mr. President.

Senator Guingona. Mr. President, that is all for now. Thank you very much.

The Presiding Officer [Senator Aquino]. Senator Lina is not around, so we will listen to Senator Tatad.

Senator Tatad is recognized.

Senator Tatad. Thank you very much, Mr. President. Will the distinguished Sponsor yield for a few clarificatory questions?

Senator Alvarez. With pleasure to the Gentleman from Bicol and Quezon City, Mr. President.

Senator Tatad. Before my questions, Mr. President, I should like to congratulate the distinguished Sponsor for his wise and masterful handling of the questions so far, and for the physical stamina he has shown during the last few hours.

Just to backtrack a little. The distinguished Sponsor is Chairman of the Committee on Public Services and at the same time Chairman of the Committee on Energy and Environment. So this measure was referred to both committees.

Senator Alvarez. Both committees, Mr. President.

Senator Tatad. May we know if there has been anything from the Committee on Energy and Environment on this particular measure? Is there a report on the proposed legislation coming from the Committee on Energy and Environment?

Senator Alvarez. There was only one report. There was a joint hearing and consideration of the measure, Mr. President.

Senator Tatad. It was not necessary to acknowledge the participation of the Committee on Energy and Environment.

Senator Alvarez. There was a secondary referral.

Senator Tatad. Thank you very much for that.

In this Senate Bill No. 695, we are creating the Department of Energy, but it does, in fact, seek to recreate a Department of Energy that used to exist during the Marcos years but which was dismantled during the Aquino administration.

Before we go into the merits of the present proposal, for purposes of the record, Mr. President, will the distinguished Sponsor care to inform us — if he is in a position to do so — or, at least, to speculate with us why the Department of Energy was scrapped in 1986? And what has been the net consequence of that?

Senator Alvarez. The Department of Energy was scrapped because it was an institution, it was a department heavily ridden with graft and corruption, and the incoming administration dismembered the operational agencies and put the Office of Energy Affairs under the Office of the President, with the Executive Secretary performing the key role as the Chairman.

Unfortunately, this dismemberment which was meant to eradicate the perceived social malady has not produced a coherent and an equally dynamic mechanism to carry out programming and implementation of power and energy demands of the nation. The Office of the Executive Secretary has been too preoccupied at that point in time, during the period of transition from emergency powers to democracy, with a lot of vexing problems, and if students of the energy problem would write down the causes, one of the causes, perhaps, for the lag in planning and implementation is the lack of material time of the Executive Secretary in giving the sufficiently needed attention for the energy program.

Senator Tatad. I just wanted, Mr. President, the record to bear the position of the distinguished Sponsor on the need to recreate the department after it had been scrapped.

The proposed measure begins with a Declaration of Policy, and then tasks the Department to carry out such policy. Section 3 says: "...the Department... shall integrate, rationalize, supervise and control all activities and programs of government relating to energy exploration, development, utilization and conservation."

Would this, in any way, mean that with the creation of the Department of Energy, the formulation and implementation of energy policy would rest solely on this department?

Senator Alvarez. Mr. President, the government sector policy definition and implementation, yes.

Senator Tatad. Yes, as far as government is concerned.

Senator Alvarez. Yes, Mr. President.

Senator Tatad. I have a particular question with respect to this in relation to the role of the Cabinet as the policy-making body of the Executive and of which the Department is going to be a part. Now, will the Cabinet merely be expected to support the policy formulated by the Department of Energy or should energy policy, in fact, be formulated as Cabinet policy to be implemented by the Department of Energy?

Senator Alvarez. I believe the lead agency here in the Cabinet would be the Department. Yes, of course.

Senator Tatad. I ask the question because not too long ago, we saw how the government was operating. Instead of the Cabinet functioning as a whole, formulating a policy, what the President did was to assign, say, the Department of Foreign Affairs to formulate foreign policy, no longer the Cabinet; the Defense Department to formulate defense policy, nothing to do with the Cabinet.

I am raising the question just to obviate the possibility of that recurring. I recognize the role that the Department will have, but it is not going to be autonomous and independent of the Cabinet, Mr. President.

Senator Alvarez. I believe it will depend on the style of the Chief Executive. But along formal lines, while it will take the decisive and singular position in formulating energy program and implementation, the Department will have to take into account such other institutions as the NEDA. And I am sure that when a report is made by the Department Secretary on matters that will touch on financing, budget, and possibly foreign exchange problems, then the Cabinet will have to come into play. This is a matter which will be determined by the work style of the President.

In the presidency of the immediate past administration of President Aquino where I had been fortunate to be a member of the Cabinet, we were given broader autonomy in formulating policies, and we took lead on those particular arenas assigned to our Cabinet. When we reported to the Cabinet as a whole, we would interface with the corresponding Cabinet which had the relevance to the implementation or the programming of whichever particular department we were handling. And at some given point, at the end of the year, or even in six months, there is an effort on integrating all the different reports, the different policies and administration thrusts of the Cabinet and the different agencies involved.

Senator Tatad. Thank you very much, Mr. President.

This Department is being created at a time when there are moves to streamline the government. Of course, the perception is that it is so badly needed that it has to be created in spite of this trend towards streamlining and reducing the fat of government.

At the risk of repeating questions that have already been asked, do we have any projections as to how much this new creation is going to increase the size and cost of government?

We have here, and the distinguished Sponsor referred to it earlier in responding to some questions posed by Senator Guingona, Section 21 which talks of appropriations. Is it customary to leave the decision as to how much is going to be spent on a new creation such as this in the hands of the President? Or should not the Congress specify what kind of money should be spent, using the funds that are available?

Senator Alvarez. Mr. President, ultimately, Congress will have to specify, because there are staffing patterns, there is standardization of pay when this gets to be organized, and it is going to be an integration of several existing agencies. Basically, this is going to be the Office of Energy Affairs (OEA). Then we, more or less, know the ball park figure.

Senator Tatad. Yes, but my concern, Mr. President, is that Section 21 leaves the total discretion in the hands of the President to decide how much is going to be spent. Is it not better that the legislation itself specify how much money can the President spend? The sources — it is for him to determine the sources, but the amount, should that not be determined by the Congress?

Senator Alvarez. Only for the initial appropriations, Mr. President which should be drawn from the OEA. But, thereafter, the sums needed for operation, maintenance of the Department shall be included in the Annual General Appropriations Act, which is a law that will be passed by both Chambers of Congress.

Senator Tatad. Yes, I am cognizant of that, Mr. President. However, I was wondering whether it would not be an even better policy to give the ballpark figure right here in this legislation.

The Presiding Officer [Senator Aquino]. The Chair would like to inform Senator Tatad that it is customary for amounts to come from the House, rather than the Senate. It is the House that sets a budget usually for this amount.

Senator Tatad. Yes, that is very well stipulated in the Constitution. But that is not the same as saying that the President should decide how much will be spent.

The Presiding Officer [Senator Aquino]. There is usually a form wherein such amounts are to be appropriated, leaving the

exact amount blank — amounts are to be appropriated as necessary later on, or something to that effect. Usually the amount is specified by the House, and usually in the Joint Committee this comes out.

Senator Tatad. In the General Appropriations Act, yes. But in the creation of a particular agency, it is desirable, and it has been done, that the law itself says the amount — for instance, several millions — will be appropriated from funds that are available, et cetera. But I wanted to have the pleasure of listening to the Sponsor on this particular point.

Senator Alvarez. Mr. President, it is in effect stating the amount. It is not going to be beyond what is available from the unexpended funds of the OEA where the initial appropriations will be drawn. So, whichever is going to be available, with sort of volume of money, will be used for the initial appropriation. Thereafter, it is going to be by legislation, where Congress would now have the decision-making prerogative on the allocations, not only for the whole department but even the specific departments and agencies within the Department of Energy.

Senator Tatad. With that on the record, Mr. President, I think we can move on.

Let us revisit the point of deregulation, which has been raised here earlier. If we are looking forward to a future, maybe even an immediate future, characterized by a policy of deregulation in this area of energy development, do we not contradict ourselves in creating this one large agency?

Senator Alvarez. No, Mr. President, because there is going to be a specific period, accepting the reality that there is some instability in the production and even in the importation of energy resources. After such period of time, then the general trend towards privatization and deregulation will be put into full play and operation.

Senator Tatad. Mr. President, the word "privatization" has been mentioned, which means that the private sector will be encouraged to enter this area of energy development. Is there no risk that with the creation of the Department of Energy, we would, in fact, be making it difficult for the private sector to come in because the Department of Energy, which is tasked with the control of all activities and programs of government relating to energy exploration, development, utilization, and conservation might develop a vested interest in controlling this particular activity?

Senator Alvarez. Yes, Mr. President, but we have to take into account the fact that we are now putting the energy program under the wings of accountable officials, politically accountable, because, in effect, the Secretary of the Department of Energy is

going to be an extension of the personality of our number one elective official who is accountable to the nation.

So, we will know that the President will continue to feel the public pulse and public interest, and will devolve the energy program, and all its many processes, into the private sector, even when that becomes very imperative.

As a matter of fact, taking acknowledgment of this growing perception in the management of our national affairs, we have embedded here a provision which creates the Council of Advisers, representing in a balanced manner different sectors of the private business community, who will advise then the President on the program of deregulation and privatization.

We will, at the opportune time, introduce an amendment here, putting a time frame within which the consideration of deregulation and privatization will have to be taken into account, if it will have to be managed by the department.

Mr. President, while it is true that we have to welcome the private sector and usher in, perhaps, a regime of near-complete deregulation and privatization, the Gentleman and I know that this cannot be accomplished overnight; otherwise, we might cause even far more difficult condition in the market if we do not exercise the needed responsibility of the private sector in intervening in the market.

The system that we are trying to create here is to bring in, as much as possible, and encourage, as much as we can, in a systematic and in a gradual fashion, the participation of the private sector in energy exploration and supply.

Senator Tatad. Thank you very much, Mr. President.

I have a question to ask on the Council of Energy Advisers. But before that, I think Section 15 of Chapter III relates more to privatization. Section 15 reads:

In the formulation of implementing rules and regulations for the financing, construction and operation and maintenance of infrastructure projects by the private sector, otherwise known as Republic Act 6957, the BOT Law, the secretary shall be a member of the body authorized to formulate and prescribe the necessary guidelines.

I think this is an attempt to define an additional power of the secretary, but I was wondering whether he is being given more power than he needs because here we talk of the financing, construction and operation, and maintenance of infrastructure projects by the private sector. This is a very broad area. It does not say "energy-related infrastructure project," but simply states "infrastructure projects." Is there an oversight here?

Senator Alvarez. The intention here, really, Mr. President, is to have him participate in the crafting of these necessary guidelines because under the medium term, under the BOT law, many, if not practically a dominant number of the projects, are going to be infrastructures in power generation.

As a matter of fact, Mr. President, the 815 megawatt, which is being fast-tracked now, is going to be 70 percent, if not 75 BOT.

Senator Tatad. So the phrase "infrastructure projects" would really mean energy-related infrastructure projects. That was my point because it is a very broad area.

Senator Alvarez. Yes, Mr. President.

Senator Tatad. So an amendment at the proper time would probably be welcome, Mr. President.

Senator Alvarez. Mr. President, the body that formulates the implementing rules and guidelines for financing, thus for all projects — the Department of Public Works is a participant; the Department of Finance is also a participant. When they do the implementing guidelines, they do it across the board. So, if we will limit the participation of the Secretary of the Department of Energy only for those matters relating to the construction of power systems, he may not be able to have a fuller participation in crafting the guidelines which will have an effect on financing and will directly impact on the construction of power systems. We can do financing packages which relate to all projects, and yet it will relate also to the financing system relating to power systems.

So, if we will limit him, Mr. President, in crafting the guidelines to only those that relate to power systems, we might restrict him unduly from doing a good job of looking after the interest of his department.

Senator Tatad. I have no intention to limit the ambit of his authority or responsibility. But there is the risk that he might overstretch if it is not so specified that the reason why he has been brought into this Body is to make sure that all energy-related infrastructure projects are properly assessed and evaluated, according to the requirements of the new Department of Energy.

Mr. President, on the Council of Energy Advisers, Section 13, Chapter III, it has been asked earlier by Senator Guingona, I believe, who will appoint, what term they will have, and the distinguished Sponsor has said that to ensure balanced representation from the major sectors of private industry, there will be these five members of the Council.

Would the distinguished Sponsor care to enumerate what are these five major sectors of private industry that must be represented, just for the record?

Senator Alvarez. Mr. President, I would rather that the determination of these sectors be left to the Chief Executive. However, for purposes of discussion, we can already pinpoint, even at this point, some of the key sectors of the industry. We have the Chamber of Industry; we have the Chamber of Commerce; we have a group of exporters; we have the banking sector; and we also have certain key sectors, like the mining industry, that has a considerable demand on energy. Perhaps, the organized sectors of the business community would be in a position to make the recommendations to the President, when the President calls for this.

Senator Tatad. So the Sponsor would leave the identification of the major sectors in the hands of the President. Is that correct, Mr. President?

Senator Alvarez. Yes, Mr. President. There is already, as a matter of fact, the task force on energy. There is the representative from certain key sectors that relate energy problems. Perhaps, from here, the President can take his guidance.

Senator Tatad. Would this Council have any powers whatsoever, Mr. President?

Senator Alvarez. I think the power will be recommendatory. This is to inform the President on the perceptions of the private sector.

Senator Tatad. And this is to be convened within 30 days upon approval of this Act.

What relationship would this Council have with the Department of Energy itself? The Council is supposed to advise the President. What relationship will it have with the Department itself?

Senator Alvarez. The Council will advise the President. Since the Department Secretary is an extension of the personality of the President, the President, definitely, drawing from his advice, will be able to utilize appropriately the advice of the Council.

Senator Tatad. So we have a Council separate from the Department of Energy that will advise the President on matters relating to energy. Is that correct, Mr. President?

Senator Alvarez. The recommendation we have here, Mr. President, is, the advice will be to the effect that there is a study and a recommendation for the eventual deregulation of the energy sector.

Senator Tatad. I want to be very precise here because my impression is that the Council will have nothing to do with the Department of Energy itself. This is a bill that creates the

Department of Energy. At the same time we see here a separate creation. We have here a rider. This is a separate creation, Mr. President. May we ask the Sponsor to respond to that particular observation?

Senator Alvarez. Yes, Mr. President.

This is not separate because we are engaged on formulating policy, and the secretary is the alter ego of the President. The Council, as it advises the President, in effect, will impact on the policy which the secretary will have to undertake.

If the President appreciates the advice because this is purely an advisory matter, then the President will bring down the advice to the secretary.

Senator Tatad. If the function is merely advisory, is there any need to create this Council here in the law?

Senator Alvarez. This acknowledges the trend in managing the affairs of government and of society, of encouraging more and more private participation in decision making, Mr. President.

We have a task force on energy. We have a lot of NGOs that somehow directly or indirectly carry out programs defined in government. So, in this very crucial issue where we are grappling with the question of deregulation and privatization, I think it is useful and may even be very well-advised for the private sector to have a council, a body that will have impact on this general policy of energy.

Senator Tatad. Mr. President, I do not minimize the role that the private sector is playing, that it can play, and that it will play in all this. My only concern is that if this particular creation has nothing to do with the Department of Energy itself, is completely separate from it, then it becomes a separate creation. Therefore, it might be advisable to do away with it here in this legislation.

I just wanted the record to bear the position of the Sponsor just in case that question arises in the future.

Senator Alvarez. The Gentleman is free to take his position, Mr. President. But eventually, there is no doubt that a private sector, which focuses on energy advising the President, will function to impact on the decision making of energy programs.

The program, as shaped by the department, will have to be correlated by the Chief Justice. This is going to be his department, Mr. President. And if he has a private sector that will be advising him, it will enrich the decision-making process for long term programs of the government.

Senator Tatad. I have no further questions to ask, Mr. President. I should like to thank my distinguished Colleague. Thank you very much, Mr. President.

Senator Alvarez. Thank you, Mr. President.

Senator Lina. Mr. President.

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

Senator Lina. Thank you, Mr. President.

Will the distinguished Sponsor respond to some questions?

Senator Alvarez. With pleasure, Mr. President.

Senator Lina. Mr. President, the basic rationale behind this proposal to create another department is that the present bureaucracy that is tasked with tackling the energy concerns of the government is unable to act or respond to the energy situation. Will that be a fair statement?

Senator Alvarez. That is a very fair statement, Mr. President.

Senator Lina. May we be informed, Mr. President, just very briefly what were the shortcomings committed by the present bureaucracy, including the sins of omission, that warrant the creation of a separate Department of Energy?

Obviously, we have a serious energy situation — the brownouts, the blackouts, the matter of pricing and other related problems. Can the distinguished Sponsor state the justification in some specific details, so that when we read the records of this particular bill, the reader would readily see the justification behind the creation of this department?

Senator Alvarez. Mr. President, the different agencies that have been mandated to carry out the exploration and production of power and energy have not only been inadequate in providing for the modicum level of power and energy supply of the nation, they have been remissed even in anticipating the energy needs of the nation. It failed to install and build the necessary power systems. They failed to anticipate the growing need of the community for more power.

There have been a lot of irregularities in the procurement of power system. They have allowed the rate of energy to shoot beyond reasonable levels and costs.

Worst, Mr. President, these agencies have also cross-working purposes, almost canceling each other's effort in providing energy

for the nation, so that it has become a compelling need to put them under the wings of one department that will rationalize and coordinate the effort of the different agencies producing energy. This is not taking into account the fact that certain perceived irregularities and anomalies in the process of producing power and energy for the nation if put under a supervening body that will have an authority of review, may, to a considerable extent, be rectified.

Mr. President, the evidence of the malaise of these agencies and institutions are not only felt in the higher chamber of decision making, but even by common citizens. The failure has been so obvious and so palpable that it has touched and affected the daily lives of Filipinos at large.

That is the reason why we have to create this department — to put things in order, to respond to the needs of the common man for power and electricity, and to have the economy move ahead and not be pushed back by failure to have a mechanism or a machinery that will respond to our needs for power and energy.

Senator Lina. Thank you very much for that answer, Mr. President.

In Section 4 of the bill, there are nine powers and functions that are enumerated, which the Department shall undertake. Can we take a look at paragraph 1, Mr. President?

Under the present dispensation, which agency of government handles this particular function?

Senator Alvarez. This function now is fragmented amongst a number of agencies. The Office of Energy Affairs formulates policies, plans, and prepares the program. The program is referred to as the Philippine Energy Program. But that also involves planning. However, much of the implementation of that program would come in the mandate of the National Power Corporation in providing energy supply. Again, in geothermal exploration, for instance, the exploration is being undertaken by the PNOC, another separate agency.

Under the first mandate, the diverse and disparate functions are being put together and harmonized.

Senator Lina. Mr. President, is not NEDA an active participant in the formulation of policies for the planning and implementation of a comprehensive program for the supply and use of energy, because of the very wording of the subparagraph states: "x x x which is integrated with the countries economic development programs"?

The point I am trying to make, Mr. President, is that, are we saying that with the creation of this department and justification

for its existence, that our government does not, even up to this point, have any comprehensive program for the supply and use of energy? Are we starting from scratch, Mr. President? Is this not already outlined in the NEDA plan?

Senator Alvarez. The distinguished Gentleman is correct, Mr. President, but the energy program of NEDA is an indicative plan. These are targets set for the whole economy. But to be able to reach out and hit these targets will determine on how well or how decisively the implementing agencies are being compelled to deliver the target goals.

So that if NEDA decides, for instance, that the growth should be 4.5 of the GNP, and this will be translated or allocated to the different departments in terms of their delivery capacity so that 4.5 will mean the production of 500 megawatts, then the department — under the leadership of the Department Secretary — will be able to translate this into target objectives. And any of the agencies — generating energy under the department — will now be given responsibilities. They cannot say that "this will go against the grain of my corporate mandate."

May I give an example, Mr. President. For instance, the PNOC cannot say that "I cannot go on exploring and developing this geothermal system, this geothermal steam deposit, because it is not going to give me a good return."

And as a corporate body, it is very well justified; if it is an estimate, it will not bring very good returns.

However, if it is needed in the total program, then the Secretary can give the necessary instruction and mandate to the PNOC so that after developing the geothermal wells, the NPC will now be able to install, to plan, to harness those wells in order to meet the target to 400 or 500 megawatts as part of the overall indicative plan of NEDA for a growth of 4 or 5 percent of the GNP.

Senator Lina. Under the present arrangement, Mr. President, which government agency assists in fleshing out this indicative plan that the distinguished Sponsor referred to? Is there a total absence at the present time of an agency that fleshes out how these indicative targets, let us say, number of megawatts, given population, given a period of time? Are we totally zero at this point, Mr. President?

I just would like to see how the relationship of the existing various agencies operate in the concrete, so that I can be very clear in my mind what kind of organizational model we will adopt so that we can avoid the pitfalls of the present bureaucracy on energy, Mr. President.

Senator Alvarez. The distinguished Gentleman is correct. There is an absence of direct participation in the NEDA planning body of an energy spokesman. The NEDA, when presided over

by the President on Cabinet level, is wanting in a Secretary of the Department of Energy. However, if we do create this department, then we make the Secretary of the Department of Energy sit in the planning board of NEDA.

Senator Lina. Which agency, Mr. President, develops the Philippine Energy Program?

Senator Alvarez. This is the Office of Energy Affairs, Mr. President.

Senator Lina. I did not read the charter of the law creating the Office of Energy Affairs. Maybe it is safe to say that it is the Office of Energy Affairs that should have fleshed out these strategies and tactics on how to achieve, given targets in the NEDA plan on the supply and use of energy.

What is wrong with the Office of Energy Affairs, Mr. President, why had it been unable to take the leadership in this particular area of very important concern or paramount concern? What is it in that organizational setup that makes this field so unattended that we are suffering from the present energy crisis?

Senator Alvarez. Because the Office of Energy Affairs does not have direct authority on the NPC. The Office impacts on the NPC through the Executive Secretary who will not have the time to carry out the proposed program as casted by the Office of Energy Affairs. The Executive Secretary sits at the Board of the National Power Corporation. So, it is done by indirection, Mr. President, a problem which requires a hands-on manager, someone who is really on top of the problem and responds directly in accordance with the exercise of its authority on the problem.

Senator Lina. So, we need a full time top-level executive who will oversee the entire energy concerns.

Senator Alvarez. That is right, Mr. President, whose line of command and line of vision will comprehend the relevant sectors for energy exploration and generation supply, including the importation of energy resources.

Senator Lina. Thank you very much, Mr. President.

May I now go to page 6. On Chapter III — The heading is "ATTACHED AGENCIES AND CORPORATIONS".

Did I get it correctly, Mr. President, when I heard the distinguished Sponsor that the secretary of the department that we will create, will not only have administrative supervision over the attached agencies and corporations, but control as well? The wording in Section 11, is that, this attached agencies, NPC, PNOC, and NEA are placed under the administrative supervision of the department.

The wordings, for emphasis, is: "...for policy and program coordination, but shall continue to perform the respective functions insofar as they are not inconsistent with the provisions of this Act."

I am not sure if I heard the distinguished Sponsor correctly with his response to a series of questions earlier propounded, that the Secretary, in effect, can countermand or substitute, change, reverse decisions reached by the PNOC, National Power Corporation and National Electrification Administration, agencies which have their own separate charter.

The effect of that, Mr. President, if I have heard the Gentleman correctly, is that we are transforming these agencies into line bureaus.

So, what is the correct interpretation, Mr. President? Will these attached agencies be, in effect, transformed into bureaus? Because the secretary, as I said, if I heard the distinguished Sponsor correctly, can even change the decisions or resolutions reached by the board of these various agencies and corporations.

Senator Alvarez. I do not think that it will, in effect, transform them into bureaus of the department although their decisions may be reviewed and could even be set aside by the Department Secretary, Mr. President, because their organizational structures remain intact. The board of directors operate and, as a matter of fact, the secretary will become an ex officio chairman of the respective boards of these agencies and corporations.

Senator Lina. The Energy Regulatory Board, Mr. President, will be exercising some quasi-judicial powers, and also regulatory functions with respect to energy pricing and regulations, except electric cooperatives which shall continue to be under the regulatory and supervisory authority of the National Electrification Administration, and which shall be exercised through the Energy Regulatory Board hereinafter referred to as the Board.

And Section 12 continues, "The Board shall continue to perform its respective functions, as expressed in its respective charter and other laws, insofar, as they are not inconsistent with the provisions of this Act."

Then on lines 7 and 8, of page 7, it continues, "The Secretary shall exercise administrative supervision over the Board; but, the decisions of the Board shall be appealable to the Supreme Court."

In the Energy Regulatory Board, there will be a different chairman altogether, Mr. President. Lines 5 and 6 of page 7, it states, "The Chairman and Members of the Board shall be appointed by the President upon the recommendation of the Secretary."

Senator Alvarez. Yes, Mr. President.

Senator Lina. What will be the extent of the administrative supervision, Mr. President, considering that a decision of the board is not appealable to the Secretary of the Department but shall be appealable to the Supreme Court?

So, what will be the participation of the Secretary in the Energy Regulatory Board? In the case of the attached agencies, the effect is control, not only administrative supervision, Mr. President.

As I can glean from the answer of the Gentleman, while the bill speaks of administrative supervision for policy and program coordination, there seems to be a drift, that it will no longer be administrative supervision but direct control, Mr. President.

So, how do we put the demarcation line, Mr. President? Is it as far as the attached agencies are concerned or as far as regulatory board, commissions and councils are concerned?

Senator Alvarez. This is to safeguard the independence of the ERB and its decision-making process, Mr. President.

With regard to pricing and energy regulations, the decision of the ERB may only be appealable to the Supreme Court, which means that the secretary does not have any authority to set aside, modify or to even amend this decision, or to influence it one way or the other. The power of the secretary is purely administrative supervision of the ERB. It will not have any control or influence on its decision-making power.

Senator Lina. Can the secretary, in the case of the attached agencies, go to the level of firing personnel of the attached agencies?

Senator Alvarez. Yes, Mr. President, if that will be needed in order to effect administrative control.

Senator Lina. But the wording, Mr. President, is, the administrative supervision will be for policy and program coordination. So, are we, in effect, going to amend this formulation?

Senator Alvarez. We are proposing to amend that, Mr. President. That is a bone of the debate here; it is one of those debatable areas — whether we should, in fact, strengthen it more than what it is already contained here.

This Representation is of the opinion that we should strengthen it, Mr. President.

Senator Lina. Yes. Just one or two more questions, Mr. President. I understand, and I sympathize with the distinguished

Sponsor who has been standing for the past two hours and a half, so I will just limit myself to two more questions.

On page 6, lines 26 to 28, it is stated here that the Department shall, in a concurrent capacity, be ex officio chairman of the respective boards of said agencies/corporations.

Question: Will this chairmanship be blessed with compensation or allowances?

Senator Alvarez. Mr. President, I believe we have to adhere to the injunction against allowances and compensation beyond that which are prescribed to a particular office to which we are entitled.

Senator Lina. I think there was a legislation to the effect, or even a constitutional provision, that may run in conflict with this particular provision, Mr. President.

In the past, the number of directorships in government-owned or -controlled corporations had been whittled down to two. I am not going to be very precise as to this point, but what is the possible conflict with that earlier decision made by the government that a secretary will only be allowed two directorships in government-owned or -controlled corporations?

Senator Alvarez. I believe, Mr. President, that ex officio positions have no entitlement to allowances. It is part of the job.

Senator Lina. Yes. As I said, Mr. President, I will just make the necessary reservations at the appropriate time. If there is still time, I would like to ask additional questions.

Thank you very much, Mr. President.

Senator Alvarez. Thank you, Mr. President.

Senator Biazon. Mr. President.

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

Senator Biazon. Thank you, Mr. President. Will the distinguished Gentleman yield to a few questions?

Senator Alvarez. With pleasure to the Gentleman from Ilocos Norte and Cavite.

Senator Biazon. Thank you, Mr. President.

Mr. President, the creation and organization of three bureaus under this department and the attachment of agencies to it, with the secretary exercising varying degree of influence — from

control to supervision and coordination — is designed to put under one house all the activities related to the generation of energy. Is that correct, Mr. President?

Senator Alvarez. That is correct, Mr. President. That is a very neat description of the structural changes.

Senator Biazon. In a briefing which this Representation attended once at the PNOG, one of the expressed problems was the lineal route that project proposals take and the decision-making process. By virtue of this lineal route, it takes a long time that is caused by needed decisions from agencies external to the family of energy-related agencies such as the DENR, the Department of Finance, and maybe even the Central Bank. By the time there is a decision approving the projects, the conditions have already changed, that the implementation of the project is not possible anymore. These are indicated by the cases of Calaca and the geothermal project in Mt. Apo in Mindanao.

Mr. President, has the Sponsor provided a mechanism in this bill which might resolve that problem and speed up the decision-making process in the other agencies of the government external to this energy family?

Senator Alvarez. Mr. President, perhaps, the response to this is the very creation of a department which will now be represented by a secretary who would be part of the Cabinet so that we are able to shorten the communication between Cabinet members. Whereas, problems of the attached agencies, let us say the NPC, have to be taken to the executive secretary and the executive secretary takes it up with the Cabinet. This is a very tedious process for the attached agency because the problem or the decision that will have to be attended to is being presented indirectly to the executive secretary who is a very busy Cabinet member. It cuts the process of communication with the corresponding or respective departments.

Mr. President, it has been pointed out that we have a department head talking to another department head and having an access to the President, especially because of the periodic and frequent meetings of Cabinet members, then the difficulty that had been encountered in the past by the attached agencies, to considerable degree, if not altogether, be set aside.

Senator Biazon. Mr. President, will the expansion of membership and functions of the Council of Energy Advisers, under Section 13, answer to this need for us to speed up the decision-making process related to the implementation of energy projects?

Senator Alvarez. If the Gentleman means whether the Board of Energy Advisers from the public sector will help along a policy

of deregulation and privatization, I believe so, Mr. President. The Board will be able to share the pulse of the private business sector with the President on the speed, and perhaps even on the extent of privatization and deregulation.

Senator Biazon. Thank you, Mr. President. I am referring to Section 13, which is the Council of Energy Advisers consisting of five members with balanced representation from major sectors of private industry. I am referring to the possible expansion of this organization or agency, or suborganization or subagency, in its membership, and a further expansion of its functions to assist in the expeditious decision-making process by agencies external to the energy generating family, Mr. President.

Senator Alvarez. At the period of amendments, Mr. President, I will welcome that recommendation.

Senator Biazon. Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. Senator Herrera, I believe, wants to interpellate. Senator Herrera is recognized.

Senator Herrera. Just one or two questions, Mr. President. In answer to the question raised by the distinguished Minority Floor Leader whether the Secretary of the Department of Energy has supervision over electric cooperatives, the Gentleman from Ilocos Sur answered in the affirmative.

I would like to be clarified on this: What area or in what aspect does the Secretary of Energy have supervision over electric cooperatives, since they are governed by their own charter?

Senator Alvarez. Mr. President, the National Electrification Administration (NEA) has now supervision and control on almost all of the electric cooperatives. So, if the policies and guidelines will be under the supervision of the department and, therefore, the secretary, then through its power over the National Electrification Administration, will also have some administrative influence on the cooperatives.

Usually, if a cooperative is not performing very well, the National Electrification Administration appoints the manager of that particular cooperative until such time that it is satisfied that the cooperative has straightened out its problem. To that extent, the secretary may have an influence.

Senator Herrera. If the Gentleman will recall, Mr. President, a year or two years ago, I raised the issue regarding system leakages and pilferage of electricity in the case of MERALCO. The reason why the electric rates are quite high, because they added or they passed on to the consumers the cost of pilferage and the cost of system losses to the consumers.

Under this bill, does the Secretary of Energy have the power to look into this and, perhaps, stop this practice of passing on the costs of pilferage and system losses to the consumers in order to protect the interests of the consumers?

Senator Alvarez. Yes, Mr. President, as an added mandate to the Office of the Secretary. With this proposed amendment that we have, it will be mandated to formulate and implement programs including a system of providing incentives to encourage more efficient use of energy in all energy-consuming sectors of the economy.

And also, one of the bureaus is mandated to monitor sectoral energy consumption, and conduct energy audits to technical training, et cetera, all in the objective of gearing towards an efficient energy utilization.

Senator Herrera. Does the power to regulate the pricing of electric power include also, Mr. President, the power to require the electric company to reimburse the consumers for the amounts paid by the consumers not as a result of their consumption but as a result of pilferage and system losses, because the company fails to see to it that their system is efficient?

Senator Alvarez. I think current business practices, Mr. President, imputes this to costs. In the case of the NEA and the cooperatives, the system loss is about 21 percent, and that is imputed to the cost of electricity. That is why the cost of residential electricity, especially in the rural areas, to consumers is higher, because the system loss in the cooperatives is very high.

In the case of Meralco, the system losses have already been reduced. I think it is used to be 16 percent. Now, they claim it is 11 percent. But still, the consumers are shouldering the cost for system losses, that is why Meralco has come out with the ad that the public should cooperate in curtailing pilferages, because, in effect, pilferages have been commuted or inflicted upon common consumers. Ultimately, it is part of their cost. So, they share the burden.

Senator Herrera. Let us delineate the system losses as a result of inefficiency of equipment and that of pilferage. What I would like to know is whether the Secretary of Energy has the power to look into the operation of the company and to tell the company that: "You are inefficient in your operation; you have to improve the efficiency so that we can reduce costs."

Senator Alvarez. I believe so, Mr. President. This is one of the functions we have indicated in the bill.

Senator Herrera. In the case of pilferage where the company is including that in the bill or they pass on to the consumers the

cost of pilferage, as the Gentleman said, this is a practice — but I do not think this is a fair practice where they charge it to the honest consumers — does the secretary in this instance have the power to stop the practice that the Gentleman mentioned, because that is what is going on now?

Senator Alvarez. Mr. President, what happens is, it is imputed as cost, the cost of production. And so when they do their energy billing, that cost seemingly is not directly charged against the individual consumer, but in the total package; it is imputed on what he pays in his bill. It is a debatable point whether....

Senator Herrera. Is this now the practice of the Energy Regulatory Board to allow this practice of including the cost of pilferage in the bill of electricity consumption?

Senator Alvarez. There have been voices to the effect that the utility companies should bear the brunt of this.

Senator Herrera. I really would like to be enlightened on the power of the Secretary of Energy or the Energy Regulatory Board as far as giving protection to the consumer on anomalies like what I have cited is concerned, because this entails so much cost on the part of the consumers.

That is all, Mr. President.

Senator Alvarez. Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. Maybe a clarification of what systems losses and pilferage are, is in order.

Systems losses are called systems losses, but they are actually part of the overhead for the distribution of electricity, while pilferage is usually allowed by the electric company for the relatives of the owners, those connected with the local officials, and so on. That is totally different from systems overhead.

The Majority Leader is recognized.

Senator Romulo. Mr. President, since the Sponsor can barely stand, may I ask that we suspend consideration of the bill on the Department of Energy.

Senator Alvarez. Mr. President, is the Majority Leader saying that I am now the stumbling block on the early passage of this legislation? Because I object, Mr. President, to the observation of the Majority Leader. I can alternately stand on either left or right foot.

Senator Romulo. Mr. President, I withdraw that motion. Instead, I move that we close the period of interpellations.

The Presiding Officer [Senator Aquino]. Are there any objections to the closing of the period of interpellations? [Silence] Hearing none, the motion is approved.

Senator Romulo. Mr. President, therefore, tomorrow, when we resume consideration of this bill, we shall be in the period of amendments.

Senator Alvarez. Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. So, tomorrow, we will hear the amendments to this proposed bill.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 695

Senator Romulo. Mr. President, I move that we suspend consideration of this bill.

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

Senator Romulo. Mr. President, may I ask the consent of the Chamber so that we can read the additional Reference of Business.

The Presiding Officer [Senator Aquino]. Is there any objection to the reading of the additional Reference of Business? [Silence] Please proceed.

SECOND ADDITIONAL REFERENCE OF BUSINESS COMMITTEE REPORT

The Acting Secretary [Atty. Raval]. Committee Report No. 14, submitted by the Committee on Rules on Proposed Senate Resolution No. 58, introduced by Senator Webb, entitled

RESOLUTION COMMENDING ROEL VELASCO FOR HIS FEAT OF GARNERING A BRONZE MEDAL IN BOXING IN THE CURRENT OLYMPIC GAMES AT BARCELONA, SPAIN,

recommending its adoption without amendment.

Sponsor: Senator Webb

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

SPECIAL ORDERS

Senator Romulo. Mr. President, I move that we transfer to the Calendar for Special Orders Resolution No. 58 under Committee Report No. 14, as read by the Secretary.

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

The Acting Secretary [Atty. Raval]. Committee Report No. 15, submitted by the Committee on Urban Planning, Housing and Resettlement on Senate Bill No. 355, introduced by Senator Macapagal-Arroyo, entitled

AN ACT EXPANDING THE CONCEPT OF CONDOMINIUM AND FOR OTHER RELATED PURPOSES, THEREBY AMENDING REPUBLIC ACT NUMBERED FORTY-SEVEN HUNDRED AND TWENTY-SIX, ENTITLED AN ACT TO DEFINE CONDOMINIUM, ESTABLISH REQUIREMENTS FOR ITS CREATION, AND GOVERN ITS INCIDENTS,

recommending its approval without amendment.

Sponsors: Senator Macapagal-Arroyo and the Committee on Urban Planning, Housing and Resettlement

Dissenting: Senator Coseteng

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

Senator Romulo. I move that we transfer to the Calendar for Special Orders Senate Bill No. 355, under Committee Report No. 15, as read by the Secretary, Mr. President.

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

Senator Romulo. I likewise move that we transfer to the Calendar for Special Orders Senate Bill No. 704, under Committee Report No. 10, on the Legislative-Executive Development Council.

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

CONSIDERATION OF SENATE RESOLUTION NO. 58 (Commendation of Roel Velasco for Garnering Bronze Medal in Olympic)

Senator Romulo. Mr. President, with the consent of this Chamber, I ask that we now consider Senate Resolution No. 58 under Committee Report No. 14, Resolution Commending Roel Velasco for his feat of garnering a bronze medal in boxing in the current Olympic Games at Barcelona, Spain.



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Senator Macapagal-Arroyo. It is accepted, Mr. President.

The President. Is the Maceda amendment acceptable to this Body?

Senator Romulo. It is accepted, Mr. President.

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

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 704

Senator Romulo. Mr. President, upon request of some Members that we come up with a clean copy of Senate Bill No. 704, in consultation with the Chairman of the Committee, may I ask that we suspend consideration of this bill and take it up again tomorrow for a final pass on any individual amendment.

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

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a suspension of the session for one minute to discuss the next bill.

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

It was 4:45 p.m.

RESUMPTION OF THE SESSION

At 5:37 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

BILL ON SECOND READING

Senate Bill No. 695 — Creating the Department of Energy (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 695 as reported out under Committee Report No. 5.

The President. Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo. Mr. President, we are now in the period of Committee amendments. I ask that the Chairman of the Committee on Energy and Environment, Senator Heherson Alvarez be recognized.

Senator Maceda. Mr. President.

The President. The Senate President Pro Tempore is recognized.

PARLIAMENTARY INQUIRY OF SENATOR MACEDA (Basis for Considering Senate Bill No. 695 as Top Priority)

Senator Maceda. Mr. President, before we open the period of Committee Amendments, may I pose a parliamentary inquiry?

It seems to me, Mr. President, since this matter of kidnappings and crime came about, Pinatubo and all, I am not sure whether this matter is still considered as a high priority matter by the administration.

We had occasion to meet with the President individually or as a group, but this bill has not been mentioned at all. I have not read whether the House—which is normally a “Pangasinan Express”—has approved this bill. So I am really wondering—and this is a parliamentary inquiry—whether there is any indication that this is still a priority measure of the administration or not.

The President. The Chair can only say that on the basis of record, the communications sent by the President of the Philippines to the Senate as well as in his State of the Nation address, the bill creating the Department of Energy always stands as one of the administration’s priority measures.

Whether there has been a change in that disposition of the Executive, there is no communication to that effect and nothing to judge such action by the Executive has come to the attention of the Presiding Officer of this Body.

Senator Maceda. I just want to clarify that, Mr. President, because we have seen how much of a high-powered campaign was exerted on the Senate to pass the Pinatubo bill.

This bill could have been certified as part of the special session’s agenda, which it was not.

I recall during the last time we had occasion to meet the President, I think what was mentioned was the amnesty proclamation or the concurrence thereof.

So, I really sincerely doubt at this point in time whether this bill still carries the priority tag under the present administration.

Thank you, Mr. President.

The President. I confirm for the record the statement of the Senate President Pro Tempore that during our last meeting with the President, he did mention the need for the concurrent action of the Senate as far as Proclamation No. 10-A, which is the proclamation on amnesty, is concerned.

But I have no basis for saying that the Department of Energy bill is no longer one of the priority administration measures.

Senator Romulo. Mr. President, this is not to disagree either with your statement or the statement of the Senate President Pro Tempore. But last week, during the regular Wednesday meeting of the Senators with the President, the President mentioned two bills to this Representation, and these are the bills on the creation of the Department of Energy and the restoration of death penalty.

I also read his statement in the papers on these two issues, Mr. President, the Department of Energy bill and the death penalty. In fact, I had it in my file except that somehow, I may have it in my office.

So, as I said, this is not to disagree with the statements that were just given. I am just stating this from my own personal knowledge, both the statements to me and the statements that I have read in the papers, that at least these two bills are priority bills.

The President. At any rate, we have already gone far enough as far as this bill is concerned. In fact, we are already in the period of amendments.

Therefore, there being no objection to the consideration of this bill, we will proceed with the same.

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. This is not to object. As a matter of fact, Mr. President, I know that the parliamentary status of this bill is that the period of interpellations has been closed.

However, there are a number of issues which I would like to put on the record.

It is an awkward situation, Mr. President, because I filed Senate Bill No. 7, which was the first bill filed in the Senate.

And in this bill, Senate Bill No. 695, as reported out by the Senate Committee on Energy and Environment, I am the principal author.

But I would like, Mr. President, to categorically put certain issues into the *Record* of this Body.

I would like to request the distinguished sponsor if he will answer a few questions. Not necessarily to reopen the period of interpellations, but simply to allow me to formulate amendments depending upon his answer to my questions.

Senator Alvarez. In the course of the proposal of the Gentleman, I will be amenable if he should interject some of those propositions.

The President. Senator Osmeña may then proceed.

Senator Osmeña. Mr. President, I note and it is very clear from the....

Senator Alvarez. Mr. President, is the Gentleman making a proposal for an amendment?

Senator Osmeña. No. I would like to address some questions, Mr. President, to serve as the basis for future amendments. That is basically the thrust. I could take another avenue, which is to ask that we reopen the period of interpellations, if that is the preferred avenue that the sponsor would like to take.

Senator Alvarez. No. But what I am saying, Mr. President, is that, I know that the Gentleman has very substantial proposals for amendment. At that point in time, when he makes his proposal, I will have no objections if he will expound on certain key points that will clarify his position.

Senator Osmeña. What the Gentleman is saying, Mr. President, is that he would like me to wait for the period of individual amendments. But the other issue here is that, if I could be allowed to bring it out as it is relevant to the question of Senator Maceda as to whether or not there is urgency in enacting this bill as reported out by the Committee.

SUSPENSION OF THE SESSION

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

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

It was 5:46 p.m.

RESUMPTION OF THE SESSION

At 5:47 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, we already closed the period of interpellations and so we are now going to the period of committee amendments. But in view of the request and desire of many Members to ask substantial and important questions to clarify the issues, I move that we reopen the period of interpellations.

The President. Is there any objection to this motion? [Silence] The Chair hears none; said motion is hereby approved, and the closing of the period of interpellations on Senate Bill No. 695 is hereby ordered reopened.

Senator Osmeña. Mr. President, may I preface my statement, to begin with, by saying that my involvement as a legislator with the issue of energy dates back to the days when the President and I were Colleagues in the House of Representatives and we were deliberating on what was later on to become Republic Act No. 6173.

This bill, Senate Bill No. 695, particularly paragraphs 4(3) and 4(4), is almost a verbatim restatement of Section 4 (a), (b), (c) and (d) of P.D. No. 1206, creating the Department of Energy and EO No. 193, Sections 4 (a), 4 (b), 4 (c), 4 (d), creating the Office of Energy Affairs. So I would like to ask the sponsor whether it is the desire of the Committee that this language should be used again. We have gone through four stages: We enacted Republic Act No. 6173 during the presidency of President Marcos. He decreed PD No. 1206 creating the Department of Energy. Mrs. Aquino abolished the Department of Energy with Executive Order No. 20 on June 17, 1986, and she decreed Executive Order No. 172 creating the ERB and Executive Order No. 193 creating the Office of Energy Affairs. And through all these progression of legislation, Mr. President, the language has not been changed.

So, are we, in effect, simply enacting or re-legislating what has already been in the books of this country? To me, that is a prejudicial question, Mr. President, because in Senate Bill No. 7, this Representation took a bold step away from the language of Executive Order Nos. 172 and 193, Presidential Decree No. 1206 and Republic Act No. 6173.

Senator Alvarez. Mr. President, certain expressions may be the same as the previous rules and legislation on the issue. However, we feel, that after the Committee has conducted its hearing and reconstituted this measure, it has now come up with

the bill that has an integrity of its own. So that, whatever may have been lifted in manners of borrowing bodies of language do not necessarily stand on their own. It now stands and should be judged in relation with the coherence and integrity of this measure.

At the appropriate time, which is the purpose of the period of amendments, if certain segments or parts should not cohere with each other, then the appropriate recommendations or proposals could be done. But the Committee is satisfied that this bill, as it stands now, expresses the new thrust or perception of how to address the problem of the need to create a new Department of Energy.

Senator Osmeña. Mr. President, I would like to be very specific.

In Section 4(4) of the bill, it speaks of "plan, implement, coordinate, supervise all government activities." And this Section 4(4) is actually the same as Section 4 (a) of Presidential Decree No. 1206 and Executive Order No. 193. And it goes further and says, "to regulate private sector activities relative to the exploration, development, extraction, production, importation, exportation, processing, transportation, marketing, distribution, utilization, conservation, stockpiling of all forms of energy products and resources."

This language is identical with the language of Section 4 (d) of Presidential Decree No. 1206 and Section 4 (d) of Executive Order No. 193 as well as the language of Section 2 (g) of Republic Act No. 6173.

In effect, Mr. President, what we are doing here is maintaining the philosophy of government regulation over every aspect of the energy sector in this country. And this is, Mr. President the core issue. Are we to continue and maintain the regulation of all energy-related activities or are we to allow some deregulation?

Because in my proposal, Senate Bill No. 7, I proposed the deregulation of certain activities, particularly the activities of refining, marketing, the location of gasoline stations, and the transportation of petroleum products among others.

Mr. President, that is my question to the sponsor. Is it the recommendation of the Committee that we maintain total regulation of this industry?

Senator Alvarez. No, Mr. President. The Gentleman is correct that there has to be a shift in the character of this department, and it must operate within the context of a free market system.

The regulatory powers, if there are, will have to shift for the need for more privatization and eventual deregulation. However, we do not want to prescribe the time and place in this bill. There are provisions, proposed amendments. As a matter of fact, the Gentleman from Quezon is also set to make his set of proposals along the line of thinking of the distinguished Gentleman.

This one provision should not be taken as overriding, because there are other restatements of the spirit of free enterprise.

In the Committee amendments, Mr. President, in Section 1, page 1, line 6, we will already insert ENCOURAGE A MORE ACTIVE PRIVATE SECTOR PARTICIPATION which will be along the lines of approach of the Gentleman as I perceive his analysis or presentation of that portion referred to.

Senator Osmeña. Mr. President, the second issue is that under the existing law, EO No. 172 creating the ERB, the rate-setting mechanism is exercised by the ERB only with respect to the rates of the private electric power providers, the gasoline companies or the petroleum refineries and marketing outlets.

As far as the NPC is concerned—and our distinguished Colleague, the Minority Leader Senator Guingona, has won a case in the Supreme Court on this matter—the NPC rate-setting mechanism is within the control of the Board of Directors of the NPC who are beneficiaries of high rates because they can buy more Pajeros, as the distinguished sponsor himself knows, Mr. President.

So the proposal that we had presented in the Senate was for the ERB to have jurisdiction over the rate mechanism of the NPC. This would also apply to the NEA, the National Electrification Administration, because the board of the NEA also sets the rate for the cooperatives.

Our proposal in Senate Bill No. 7 was for a unified rate-setting mechanism under the ERB which was a proposal that the Committee did not incorporate in this bill.

Mr. President, I would like to know what is the feeling of the Committee with respect to the issue of a unified rate-setting mechanism.

Senator Alvarez. Mr. President, the feeling of the Committee is in Section 12, line 32, page 6 up to page 7, up to Section 18, page 7. Here we have retained the independence of the ERB with regard to energy pricing regulations, except as to electric cooperatives which is exclusively under the control and authority of the National Electrification Administration.

Senator Osmeña. Mr. President, the other issue that I would like to take up is an issue that Senator Maceda expounded on earlier in the period of interpellations. Are we really looking for an energy czar, an all-powerful energy czar? If we are, is the Secretary now going to become the Chairman of the Board of NPC, PNOC, as well as NEA?

Senator Alvarez. That is the proposal in the bill, Mr. President.

Senator Osmeña. Is that the proposal?

Senator Alvarez. Yes, in the bill. Ex officio Chairman.

Senator Osmeña. In that case, because the Charter of the NPC provides that the Chairman of the NPOC is also the Chief Operating Officer, are we, in effect, going to make the Secretary the Chairman of the PNOC and, therefore, the Chief Operating Officer?

Senator Alvarez. Not necessarily, Mr. President. He is only going to be Ex officio Chairman of the Board as specified in the bill.

Senator Osmeña. So, therefore, Mr. President, we will have to amend in this bill the Charter of the PNOC.

Senator Alvarez. Yes, we can specify that. We can articulate on that more clearly in the bill.

Senator Osmeña. Mr. President, those are the issues I have brought up because to me, those issues are central to the creation of the new Department of Energy. Unless we address those issues, we will only be reenacting 20 years of legislative language. And if that be the case, I would tend to agree with those in this Chamber who view this bill as being devoid of urgency.

Thank you, Mr. President.

Senator Alvarez. Mr. President, in answer to the observation of the Gentleman, may I say that over the last two weeks where we had occasion to confer with the President, he has been in earnest and is very keen on the handling of this bill. As a matter of fact, the President felt this is one of the durable changes in his administration in order that the awesome problem on electricity may be addressed by his government.

Senator Maceda. Mr. President.

The President. The Senate President Pro Tempore is recognized.

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

Senator Alvarez. With pleasure, to the Gentleman from Manila.

Senator Maceda. Mr. President, I propounded a parliamentary question earlier because the truth of the matter was that, in view of the short period before the first recess, roughly four weeks, and in the light of the State of the Nation address and the new Senate wanting to deliver a message of cooperation with the new President, we took this matter up with a sense of urgency.

The net result was, at least in my particular case, I did not give it the extended debate and deliberation that a bill of this importance—no less than creating a new department—should have been given.

Therefore, I beg the indulgence of the Gentleman, and I thank him for allowing the reopening of the debate because of the apparent relaxation of the critical nature of this bill, as I said earlier.

Mr. President, is it not correct that the crisis that was really imposed on us was not so much an organizational, but a financial crisis? Would it be correct, as an initial premise, that even if we create 10 Departments of Energy, if we are not going to give NAPOCOR the initial P5 to P7 billion that it is asking for, or if we are not going to assure NAPOCOR of an infusion of equity or allowing it to increase the rates almost annually by P0.17 to P0.20 per kilowatt hour, or by giving it priority in the matter of foreign grants, or giving it the crisis priority that Mt. Pinatubo got by giving it an infusion of P15 billion for one year, P10 billion for this year, and maybe another P10 billion for next year, and that the mere creation or recreation, as the Gentleman from Cebu was implying, of the Department of Energy would not solve the actual crisis, which is of lack of power and power-generating capability?

Senator Alvarez. That is only part of the truth, Mr. President. The fact is that there is really an immediate crisis that we should come to the financial assistance of this ailing body, but even if we do, if we do not create the department, and this is going to be a continuing crisis, that crisis will forever be with us.

I have a sense, Mr. President, that if we have an overall body that is going to be politically accountable, working side by side

with the planning mechanism of the total government machinery, the medium-term, and even the long-term problem of energy may be appropriately addressed. So the crisis is only within a bigger crisis, although the Gentleman is correct in saying that the immediate crisis is financing.

Senator Maceda. So Mr. President, is there anything in this measure that will solve the problem of financing the programs that will be implemented by the Department of Energy?

Senator Alvarez. Mr. President, if we create this department next month, many of the problems of financing maybe even better handled and facilitated.

In our study, in our hearings, and in our investigation of the problem of NAPOCOR, the failure to elevate this into a Cabinet-level concern has been one of the banes of planning and implementation of the energy program. As a matter of fact, the failure may have stemmed from this administrative lapse—the lack of the PEP or the Philippine Energy Program with the decisive endorsement of the total government machinery.

Senator Maceda. Mr. President, will the Gentleman favor this Representation with an explanation or will the Gentleman point out to us where specifically in the bill are the provisions or sections which will assure that the financing aspect of this problem will be taken care of by this new Department of Energy?

Senator Alvarez. Mr. President, this is not a budget measure. However, as a seasoned hand in administration, the Gentleman understands that the workings of a system like this will indeed address the problems of financing if the system operates as expected. The total logic of the operation of a department will address the big problem.

For instance, one of the biggest problems of financing in the past and the failure to align it alongside with the first concerns of government—and therefore we failed to build electric power plants—was the fact that this was always in the back burner. The Office of Energy Affairs was presided by an Executive Secretary who had higher priorities, who hardly had much time, and the President of NAPOCOR in whose hands rested the problem of building power systems, and for this he had to relate to the PNOC, who had to fall back on his ROI. The very fact that it was not taken to the highest concern of the Cabinet made the program suffer. And continually, one of the—I will not say—failures in planning and implementation is the fact that whenever this was brought to the attention of the Executive, it rested and was almost treated with benign neglect at the Office of the Executive Secretary.

If we are going to have an energy concern which will be elevated to that of a Cabinet Secretary's position, it will become a total Cabinet concern; it can be brought by the Secretary of Energy to the attention of the President. And the Gentleman very well knows that putting a matter on that level almost assures it of a priority treatment in matters of allocating scarce and very limited resources—even borrowing resources.

Senator Maceda. Mr. President, scanning Section 4, which deals on the *Powers and Functions of the Department*, which we do not need to read, I was wondering if I was correct in my impression that there is absolutely nothing here that refers to the matter of the department providing for or being empowered to raise the necessary financial program that is needed to assure the success of this new department. Would that be a correct reading of Section 4, Mr. President?

Senator Alvarez. Mr. President, it may not be correct. It may be, as a matter of fact, a misimpression. Because while it does not mandate pesos and cents, it does, in fact, mandate carrying out a program, and the inescapable implication is that pesos and cents must support the program.

For instance, if the distinguished Gentleman goes to subsection 2: Develop and update the Philippine Energy Program which shall provide for an integrated and comprehensive exploration, development, et cetera, and the Philippine Energy Program (PEP) shall be formulated within six (6) months from the effectivity of this Act and shall be submitted to Congress within ten (10) days from its completion and annually thereafter, this mandate alone, Mr. President, will respond to the gap which has been crying for implementation on the energy program.

This plan has not been attended to. And when it was finally realized that there was a gap in supply, the NAPOCOR, which is not politically accountable, prepared the plan. And in the plan, there were shortfalls in the estimate of energy consumption. In the plan also, the coordination for the needed resources to support the program was not integrated. But on a Cabinet level, on a department level, I hope that this will be better managed.

Senator Maceda. I guess subsection 2 to which the Gentleman is referring to, meaning to say, the developing and updating of the Philippine Energy Program could be read to include a proposed financing of the same. But it is very clear that whatever proposed financing will have to be resubmitted to Congress for approval. Would that be correct, Mr. President?

Senator Alvarez. Yes, Mr. President, but then the trigger mechanism to produce money will have to be a coherent plan.

Senator Maceda. Mr. President, the other question which takes us right to the declaration of policy, which I raised before, and which I would like to clarify now in the light of the sponsor's

earlier statement that there are certain amendments to be proposed by the distinguished Senator from Aurora—

Senator Alvarez. And the Committee too, Mr. President.

Senator Maceda. —and the Committee too is on the question of deregulation. Did the Committee take into consideration the letter-memorandum sent to us by Caltex Philippines, under the signature of Mr. Francis Ablan?

Senator Alvarez. Mr. President, we are lobbied by a thousand and one private interests, each one seeking the fulfillment of its heartfelt needs. We can only take note but we cannot take it into consideration.

Senator Maceda. Because I really do not know what the form of the amendments will be, but I am really appalled at the kind of proposals that I read in that particular memorandum. And if we have to go into detail into the debate on that issue, we are willing to do so, if only to prevent the possibility of the industry position of multinationals to be the one that will be given approval in this measure.

It is, of course, the privilege of the Senate to decide but certainly, I would like to debate it at length. That is why I wanted to get an indication from the Committee about what their present thinking is. And I went direct to the point that, if the Committee is sympathetic to the position of Caltex Philippines, as formally enunciated in a letter to all the Members of this Chamber, then we might as well debate that fully on the Floor. But if the Committee can assure me now that it is not in anyway sympathetic to that, then we can probably save some time on a debate, extended the debate on that particular issue.

I am just being very candid, Mr. President. I feel that Caltex has the right to try to safeguard its interest as a producer, wholesaler and manufacturer, et cetera. But I feel that the position that some of us here should take—and I hope that the distinguished Sponsor is with us—would be in the light of the present economic retrogression and in the light of the present situation where now it seems that the people that live below the poverty level has reached 80 percent rather than the much touted 59 percent figure of the Aquino administration.

I hope the distinguished Gentleman will beg my indulgence, and I ask his apologies that we have to be very particular about the possibility of any chance being given to the oil companies to be free to increase their prices as they see fit, which would be the ultimate result of a policy of deregulation.

Senator Alvarez. Mr. President, I am as much appalled as the Gentleman. If any sector of the business community should

decide the agenda of the whole nation, especially its economic development program, Caltex is only one of many interests. And, definitely, it is free to express its position which we do not accept. It is like allowing the tail to wag the dog if we allow such private concern to decide for us, no matter how extensive or how useful to the economy.

No, Mr. President, we are not going to outright deregulation. I think that even if we are a market economy, that would be disastrous to the market itself. This Representation does not believe in a complete and absolute free enterprise, especially for a developing economy like ours. We are going to leave the determination of deregulation and, perhaps, privatization to the appropriate planning mechanisms of the government so that they will take this in the light of the best interest of the nation and in coordination with other sectors of the economy.

We will favor a thrust towards privatization, and eventually, perhaps, at such opportune time, deregulation as well. But none of the Caltex formula is going to set the agenda for this bill, and I hope for any kind of bill in this Chamber.

SUSPENSION OF THE SESSION

Senator Maceda. Mr. President, I am very grateful for the assurances of the distinguished Sponsor, but to shorten the debate on this particular issue, may I ask for a three-minute suspension so that we can discuss this matter informally with the leadership of the Senate.

Senator Alvarez. For one minute, Mr. President.

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

It was 6:19 p.m.

RESUMPTION OF THE SESSION

At 6:44 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 695

Senator Romulo. Mr. President, I move that we suspend consideration of Senate Bill No. 695 on the Department of Energy.

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

MOTION OF SENATOR ROMULO (Referral of Senator Lina's Speech to the Youth and Sports Development Committee)

Senator Romulo. Mr. President, I ask that we refer the speech of Senator Lina delivered last Thursday on Linggo ng Kabataan, *Sangguniang Kabataan* elections and Little League Baseball issues to the Committee on Youth and Sports.

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

MOTION OF SENATOR ROMULO (Senator Mercado as Member of the Public Information and Mass Media Committee)

Senator Romulo. May I ask also the concurrence of the Senate on the membership of Senator Mercado to the Committee on Public Information and Mass Media.

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

Senator Romulo. May I manifest the coauthorship of Senator Wigberto Tañada to Resolution No. 141.

The President. All right, the same is noted and entered in the *Journal*.

ADJOURNMENT OF THE SESSION

Senator Romulo. Mr. President, there being no other matters to be taken up in this afternoon's session, I move that we adjourn this session until three o'clock tomorrow afternoon.

The President. Is there any objection? [*Silence*] There being none, the session today is hereby adjourned until three o'clock tomorrow afternoon.

It was 6:46 p.m.



**REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE**

Record of the Senate

**FIRST REGULAR SESSION
JULY 27 TO OCTOBER 14, 1992**

VOLUME I, NOS. 1-28

**SPECIAL SESSION
NO. 1**

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MACEDA AMENDMENT

Senator Maceda. Mr. President, just to join the long list of our Colleagues proposing amendments, on the last page, can we change the year "1992" to "1993"?

The President. What does the Sponsor say?

Senator Macapagal-Arroyo. It is accepted, Mr. President.

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

Senator Romulo. I have a motion, Mr. President, to close the period of amendments.

The President. Is it being reiterated?

Senator Romulo. Yes, Mr. President, I reiterate that motion.

The President. Is there any objection to the motion to terminate the period of individual amendments? [Silence] There being none, the period for amendments is hereby declared closed.

APPROVAL OF SENATE BILL NO. 704
ON SECOND READING, AS AMENDED

Senator Romulo. Mr. President, I now move that we vote on Senate Bill No. 704, as amended, on Second Reading.

The President. We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill, as amended, will please say *Aye*. [Several Senators: *Aye*.] As many as are against the bill, as amended, will please say *Nay*. [Silence] The *Ayes* have it. Senate Bill No. 704, as amended, is approved on Second Reading.

Is this a certified bill?

Senator Romulo. Mr. President, the Legislative-Executive Development Council is not a certified bill.

BILL ON SECOND READING
Senate Bill No. 695 — Creating the Department of Energy
(Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 695, as reported out under Committee Report No. 5.

The President. Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. I ask that the Chairman of the Committee, the distinguished Senator from Isabela, Senator Alvarez, be recognized.

The President. Senator Alvarez is hereby recognized.

Senator Alvarez. Yes, Mr. President.

The President. Is there any interpellation?

Senator Alvarez. Mr. President, since the prospective interpellators have already signified their desistance to further interpellate, ...

Senator Maceda. Mr. President.

The President. The Senate President Pro Tempore is recognized.

Senator Alvarez. Yes, I withdraw, Mr. President.

MOTION OF SENATOR MACEDA
(Insertion of Mr. F. Ablan's Letter into the Record)

Senator Maceda. Mr. President, I did indicate to the Sponsor that I will terminate my interpellation, and I would like to confirm that here, except that I would like to place on record as part of my interpellation the last time this letter of Mr. F. Ablan, President and Chief Executive Officer of Caltex, dated August 27, 1992, addressed to this Representation, composed of two pages, containing four points, with which all four points I disagree, to form part of the *Record* of the debate of this Chamber.

The President. Let it be so included in the *Record*.

The following is the full text of the letter:

August 27, 1992

Honorable Ernesto M. Maceda
Senator
Republic of the Philippines
Taft Avenue, Manila

Dear Sen. Maceda:

We respectfully submit our position paper relative to the proposed bills that have been filed with the Senate to create a Department of Energy. These are:

(1) Senate Bill No. 426 - filed by Senator Heherson T. Alvarez;

(2) Senate Bill No. 103 - filed by Senate President Neptali Gonzales;

(3) Senate Bill No. 7 - filed by Senator John Osmeña; and

(4) We have also read about a proposed draft being prepared as a certified Cabinet version.

We are concerned that the public hearing on the subject bills were started about 2 days ago and were completed yesterday without any opportunity given to the oil companies to present their respective positions on the hearing date set for the private sector.

We respectfully submit that the legislative process of establishing a Department of Energy, which would have direct bearing on the very life of the oil companies, would, at the very least, allow us an opportunity to submit our views and concerns on the matter.

We requests that our attached position paper be considered in your policy deliberations towards the creation of a Department of Energy.

Also, we respectfully request that the Senate Committees concerned reopen the public hearings to allow us to ventilate our concerns.

Thank you.

Very truly yours,

CALTEX (PHILIPPINES) INC.

(Sgd.) F. ABLAN

President & Chief Executive Officer

POSITION PAPER ON PROPOSED SENATE BILLS CREATING THE DEPARTMENT OF ENERGY

(1) Caltex fully supports the move to establish a Department of Energy, as one major measure to ensure economic growth. It is respectfully submitted, however, that an essential complementary measure is the full deregulation of the oil industry. There is widespread recognition among government policymakers, led by no less than the President, that liberalization of the market, particularly in the oil industry, is the key to the entry of much needed foreign investments.

Such recognition must now be translated by a clear expression of policy establishing deregulation. Without a clear statement of a deregulation policy, the establishment alone of a Department of Energy will not bring in the foreign investments that will solve the refinery capacity shortage.

Deregulation strengthens government's policy towards market orientation and will stimulate healthy competition to the benefit of the consuming public. It will give more protection to consumers as oil price adjustments will be smaller but timely; as such, other commodity prices need not necessarily or simultaneously change and the impact on inflation is marginal.

Deregulation eliminates the present system of controlling domestic oil price through the OPSF mechanism which has become ineffective as a tool for stabilizing domestic oil prices. This frees the government from threats to its political stability each time oil price adjustments are made. It also removes the burden on government to pay for future OPSF fund deficits which rightfully should be shouldered by oil users.

(2) The bill needs to provide clearly for the preservation of the claims for reimbursements by the oil companies against the Oil Price Stabilization Fund.

A transition clause should be included.

(3) The role of Philippine National Oil Company/Petron Corporation in a deregulated environment should be one based on commercial operations, without benefit of government subsidies or special privileges.

(4) If deregulation is the policy, then all regulatory provisions in the proposed bills should be deleted.

Senator Romulo. Mr. President, since there are no more interpellators, I move now that we close the period of interpellations.

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

Senator Romulo. I ask, Mr. President, that we now consider the Committee amendments.

The President. The distinguished Sponsor is recognized for the Committee amendments.

COMMITTEE AMENDMENTS

Senator Alvarez. On page 1, Mr. President, line 6, between the words "government" and "toward", insert the phrase "AND ENCOURAGE A MORE ACTIVE PRIVATE SECTOR PARTICIPATION".

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

Senator Alvarez. On page 2, line 3, replace the close and open parenthesis after the word "resources" with a COMMA (,).

then add the phrase "WITH PREFERENTIAL BIAS FOR ENVIRONMENT FRIENDLY AND INDIGENOUS SOURCES OF ENERGY".

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

Senator Alvarez. On page 2, line 22, delete the phrase beginning with the word "Formulate" and ending with the word "economy", and in lieu thereof, insert the following: "FORMULATE AND IMPLEMENT PROGRAMS INCLUDING A SYSTEM OF PROVIDING INCENTIVES TO ENCOURAGE MORE EFFICIENT USE OF ENERGY IN ALL ENERGY-CONSUMING SECTORS OF THE ECONOMY".

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

Senator Alvarez. On page 3, line 10, delete the word "and" after the semicolon (;) and add a new number, number 4, to read:

"(4) STUDY AND RECOMMEND TO CONGRESS WITHIN A PERIOD OF FIVE (5) YEARS PROPOSALS FOR DEREGULATION OF THE ENERGY SECTOR".

The President. Will the Sponsor repeat it for the record? Is it a complete statement?

Senator Alvarez. For the record, Mr. President, on page 3, line 10, delete the word "and" after the semicolon (;) and add a new number, number "(4)" to read:

"(4) STUDY AND RECOMMEND TO CONGRESS WITHIN A PERIOD OF FIVE (5) YEARS PROPOSALS FOR DEREGULATION OF THE ENERGY SECTOR".

The President. "FOR THE REGULATION" or "DEREGULATION"?

Senator Alvarez. "DEREGULATION", Mr. President.

The President. "FOR THE DEREGULATION".

Senator Alvarez. "DEREGULATION", yes, Mr. President.

Senator Maceda. Mr. President.

The President. The Senate President Pro Tempore is recognized.

Senator Maceda. Mr. President, I agree in principle. I just want to clarify. It seems we want to deregulate something more

specific than the energy sector. The energy sector is too broad. Specifically, what we really want to deregulate is the private business or the business of doing business in the energy sector, something like that. So, I think to just say "DEREGULATION OF THE ENERGY SECTOR" is too wide open.

The President. So, what is the proposal?

Senator Alvarez. Mr. President, we wanted to capture the totality of coverage of deregulation.

SUSPENSION OF THE SESSION

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

Let the two Gentlemen work out the proposed amendment.

It was 5:03 p.m.

RESUMPTION OF THE SESSION

At 5:06 p.m., the session was resumed.

The President. The session is resumed.

Senator Maceda. Mr. President, we would like to propose the amendment after the words "deregulation of," insert the words "APPROPRIATE ACTIVITIES OF THE ENERGY INDUSTRY."

The President. What does the Sponsor say?

Senator Alvarez. It is accepted, Mr. President.

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

Any further Committee amendments?

Senator Alvarez. On page 3, line 11, change the number "(4)" to number "(5)", Mr. President. This is just consequential.

The President. As a consequence.

Senator Alvarez. Yes, Mr. President.

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

Senator Alvarez. On page 6, line 30, after the word "President", add a new sentence, to read: "THE SECRETARY SHALL LIKEWISE HAVE THE POWER TO REVIEW THE

POLICY-DECISIONS OF THE RESPECTIVE BOARDS OF PNOOC, NPC AND NEA."

The President. That would appear on what page?

Senator Alvarez. On page 6, line 30, after the word "President".

The President. Is the amendment an additional sentence?

Senator Alvarez. Yes, Mr. President.

The President. Which reads....

Senator Alvarez. Which vests the Secretary the power of review over the decision of the attached agencies.

The President. Should they be contained in the same paragraph?

Senator Alvarez. It could be, Mr. President.

The President. Is there any objection to this amendment?

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. Just to ask the distinguished Sponsor to clarify what he means by the "power to review." For example, PNOOC is a chartered government corporation. NPC also has its own charter, and so with NEA. For example, what policy he would want to think of that could be reviewed by the Secretary? A policy, for example, of NPC to favor geothermal development over diesel or steam turbines. Just exactly what policy realms here are we talking about?

Senator Alvarez. Yes, Mr. President. For instance, the pricing of geothermal steam, which has been the bone of contention between PNOOC and NPC, could be reviewed by the Secretary in order to harmonize them and make them compatible with each other.

Senator Osmeña. The word "policy," Mr. President, to my mind, is a little nebulous, because it encompasses a very, very broad decision, like the decision on the energy mix and a decision on what is the projected energy or power demand of the country for the next ten years. Would it also encompass a decision, for example, to enter into a supply agreement with a particular supplier of oil in the Middle East? Would the Secretary also have to review this?

Senator Alvarez. I think so, Mr. President, because that may embrace a broader decision which will impact on policy. For

instance, if the Secretary feels that a contract could have been entered into with Indonesia instead of Saudi Arabia, for one reason or the other, he can review this policy.

Senator Osmeña. For example, Mr. President, PNOOC, right now, has several tankers, and if the Board of PNOOC decides to privatize their tanker fleet, would the Secretary have review over the privatization decision?

Senator Alvarez. Well, that is a question of privatization which we have handled in a previous amendment, Mr. President. If it is an appropriate aspect or activity, then it could be, because the Secretary makes decision on the phase of privatization.

Senator Osmeña. No, Mr. President.

Senator Alvarez. As a policy towards privatization, yes.

Senator Osmeña. Would the action of the Board of the PNOOC to sell all the tankers owned by the PNOOC and its subsidiaries, be subject to review by the Secretary?

Senator Alvarez. Mr. President, there is really a distinction between purely management decision or executive decision and policy decision. I guess it will have to be taken in the context of how this decision is made. But since the power of the Secretary is a supervening power, it will have to be decided in favor of an assumption of authority for review of the Secretary, and this is going to be supported by the series of provisions that we have here which empowers a Secretary to have a lead on policy-making on any due matters.

Senator Osmeña. Precisely, Mr. President. The distinguished Sponsor is presenting to me the amendments now. Unfortunately, we have not had the opportunity to study these amendments. Perhaps, we could have an understanding that he will introduce all the Committee amendments, then we will have a clean copy, and then we can go over these amendments later on.

Senator Alvarez. With pleasure, Mr. President. Even now, I am prepared to accept amendments.

Definitely, if the Manager or President of NPC fires an executive, that is not a policy; that is an executive judgment, and it is not one of those that will be reviewed.

The President. The question of the Chair is: Since the Department Secretary is in a concurrent capacity, an ex officio Chairman of the board of directors of the attached agencies or corporations, then why vest him with the power of review of the policies in which he had himself participated?

Senator Alvarez. That is correct, Mr. President. But we have to look back into the history of this measure, and the logic which has impelled the government to organize a department.

We have had very strong institutions that have been organized, addressing the energy problem, with separate tendencies for decision-making, separate institutional thrust for decision-making. Even if he participates in each one of these, there will still be a need for an overall understanding and harmonization in order to create a harmonized oversight. And this is what we intend to address with this policy review because he may be participating in a decision-making in one of the attached agencies. And at the time and point that this was done, he had not yet taken into account the other policies emerging or that have been made.

This is a reality in the interaction of agencies. If one is sitting in several agencies, sometimes, he may even dispense with his presence in one agency, so that the review process will allow the consolidation and coordination of harmonized policy for the Energy Department, Mr. President.

Senator Osmeña. Mr. President, following the line of questioning, the Secretary is chairman. He participates in a discussion. He is outvoted in the board, and then he will come back and veto the matter wherein he already lost in the board's decision.

So, if we want a Secretary to have review powers, then he should not be a board chairman. He should sit over, detached from the day-to-day operation of these companies. I would agree that he should have review powers, but for him to be a combatant in a board arena with the power to nullify the result of a battle that he lost, it may be a little awkward, Mr. President.

Senator Alvarez. Precisely, Mr. President, that adds weight to the argument for review. Because at the time that he has participated, he has not had the benefit of having fleshed out the decisions that had to be made compatible.

For instance, there are two conflicting positions taken by the two boards — PNOC and NPC. And this has been one of the banes of the energy sector. If he participates here and later participates there, his power of review gives him an oversight.

Senator Osmeña. Precisely, Mr. President, if the thrust is to give him a power of review, in effect, it is a veto power. In effect, he can veto whatever the board decides. In a way, there is merit to that. That is precisely what we have been discussing here — whether we will have a strong energy czar or we will have the disjointed energy sector management that existed during the Aquino administration.

I agree, Mr. President, that if we have a strong czar, then he should either be a participant in all of the decisions that are taking place or have the power of review. But it is a little awkward to give him both. Because the Sponsor's argument that he may not have been prepared at the moment that a decision was arrived at,

is, in effect, saying "Nagtatanga-tangahan lamang iyong Sekretaryo at pagkatapos ay babaguhin na naman niya iyong desisyon."

Senator Alvarez. I do not think so, Mr. President, because as we craft this law, we have to acknowledge the fact that there are separate entities which will have to be attached. One is a 50-year old entity with a corporate culture of its own. It may be important for the Secretary, even if he has ultimate power over that entity, to participate precisely on how the deliberations are made. And because he participates in the deliberations of other attached agencies, in order to remove the kinks in the decision-making, his review later — he is like a Board of Appeals — can smoothen out these discrepancies.

If we are organizing for the first time and we are starting afresh all these other agencies, if we are not acknowledging the variances in all these agencies, yes, indeed, I will concede to the observation of the Gentleman.

But, precisely, because we have acknowledged that these institutions are well-organized, well-retrenched entities, what we would like to do with this measure is to harmonize them; otherwise, we would have wiped them out and reorganized an entirely new department. That is why these measures are being put into place.

Senator Osmeña. No. But, again, Mr. President, the Gentleman himself likened it to an appellate process. In effect, he is saying that one of the participants in the decision will now be able to pass judgment on appeal on that decision. That is the very situation, Mr. President, that I am objecting to. If he wants to have appellate power, let him be detached from the day-to-day decision. If he wants to immerse himself in it, then he should accept the decision that was arrived at with his participation. But to have both cases, we might as well abolish the board of directors of all these companies and just make the Secretary the sole decision-making authority.

Senator Alvarez. It is not quite, Mr. President, because his participation enriches his understanding and perhaps, the depth of his decision-making. Ultimately, because he has to coordinate that with other information emerging from the different entities — the PNOC, NEA, and the NPC — that the review is even a richer exercise at decision-making. We have to acknowledge both.

In conventional terms, I would consider the Gentleman's position; but we have to take the history of the department that we are putting together.

Senator Osmeña. Precisely, Mr. President. Policy-decisions are not arrived at on an instantaneous fashion. Normally, they percolate up through the organization.

I think it is, shall we say, a little out of context to say that something may happen in another company immediately after one decision is arrived at; that something may occur in PNOG immediately after some decision is arrived at in NPC.

All the policies of this company, Mr. President, to begin with, are formulated from the top, from the Secretary. The department sets down these policies. Each of these operating units implements the policies. So the likelihood of disjointed decisions which need to be harmonized on the level of the Secretary is not really a real life situation.

But the dynamics of decision-making at these Boards will be, shall we say, Mr. President, dysfunctional if the Chairman of the Board, who is present, is known by the members of the Board to have a veto power on whatever they decide.

If I am a member of the Board of NPC, why should I take time to study an issue? Why should I take time to participate in the discussion? Why should I take time to go into it when I know that the decision of the Board anyway can be overturned by the Secretary. I will just go to the Secretary and say, "Bahala ka na. Tatal sa huli mababago mo naman talaga iyan. You can change our decision." So I will just wash my hands.

It is the dysfunction there that it will create.

Senator Alvarez. Mr. President, that is one attitude; but that is not a very healthy attitude. Participation in the deliberation and discussion of any one policy brings about a multiplicity of viewpoints which enriches decision-making. Since he is going to be the decision maker, I, if I were a member of the Board, will participate actively to be able to input into his final review.

But, Mr. President, as I have been insisting, the decision does not come from top in this one particular institution that we are building together. They will come from different sectors because we will be attaching agencies with tradition, with culture, with practices of their own. We will be putting a secretary who will try to hammer these several agencies into a harmonious whole.

I think that an open-minded leadership which we hope the kind of secretary will be, helps him in performing his job. It will also help the different agencies whether NPC, NEA, or PNOG, in wanting to ventilate to him who will finally review it. Because if we are going to make a decision in the presence of someone who might later alter our decision, the tendency is to make as much as possible an input so we can convince the decision-maker.

Mr. President, we are now trying to thresh out in reality the complexity of how decisions should be made in this different body. That is our observation, Mr. President.

The President. The problem of the Chair is that with this provision embodied in the amendment, delay is encouraged because no decision of any of the Board of Directors of the attached agencies is actually complete and executory because all of them are literally appealable to the Department head. Within what period should that be made in order that the decision of the board of directors of the attached agency remains a decision or will be a decision?

It is always open, because there is that subject of the review by the department secretary. In a very contentious society like ours, there will always be review, there will always be an appeal to the Secretary for review. Then, we are swamped now with no policy, with no action adopted at all.

Senator Alvarez. Or, perhaps, Mr. President, with action adopted because, precisely, the Secretary participates in the initial decision-making. It works both ways.

The President. Yes. But then, kailan magiging final iyong action ng board? Within what period? Is it an open-ended one that we can hold anybody who may be interested, who feels that his rights have been adversely affected, can appeal at any time to the Secretary and the Secretary may review such a decision? There is nothing in the amendment; there is no mechanism if it is intended as an appeal.

Senator Alvarez. Mr. President, that is a question which addresses itself to the efficiency of the Secretary. Because as Secretary, who is going to be politically accountable to the President and to the people, I am sure he will want to expedite decision-making.

Senator Maceda. Mr. President.

The President. Senate President Pro Tempore is recognized.

Senator Maceda. With the permission of the Gentleman from Cebu. We have touched the very first question that I reached in the first hearing, and that is a basic decision as to whether we want to make this Secretary, this Department an all powerful czar or not. I think there are all shades of opinions on this matter.

Mr. President, I think there has got to be a formal executive caucus on this particular matter, otherwise this debate will be extended.

Senator Alvarez. Mr. President, the bill is thrust in such a way that we will have a powerful Secretary who will have supervision and control over the Department.

So, all these amendments are organized along that line.

The President. As far as the Chair is concerned, over all the administrative agencies, bureaus under the Department, they are, of course, subject to the control and supervision of the Department head. I think there is no dispute about that. The dispute that comes to light is only over the actions of the board of directors of the attached agencies and corporations in which the Department head himself is already the ex officio chairman. I think the debate ought to be limited to that.

Senator Angara. Mr. President.

The President. Senator Angara is recognized.

Senator Angara. Mr. President, I am alarmed by the statement of the Sponsor that the contemplation now is to make a super secretary out of this Department, because my understanding is that we are going to create an ordinary department. But we will declare that for a certain period, there is a power crisis — there is an energy crisis that will allow us to give him supervision and control over the attached agencies. Because if that is now the intent of the Sponsor, then we would take issue with the policy thrust of this bill and we would support the call of the Senate President Pro Tempore for an executive session because that really touches on a very large policy question.

Senator Alvarez. Mr. President, the observation is correct for that period of time in which the department will address the emergency.

SUSPENSION OF THE SESSION

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

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

It was 5:30 p.m.

RESUMPTION OF THE SESSION

At 5:44 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 695

Senator Romulo. Mr. President, upon agreement with the Sponsor and the other interpellators, I ask that we suspend consideration of Senate Bill No. 695 on the Department of Energy.

The President. Is there any objection to this motion? [*Silence*] There being none, the consideration of this particular bill is hereby suspended.

SUSPENSION OF THE SESSION

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

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

It was 5:44 p.m.

RESUMPTION OF THE SESSION

At 5:45 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING

Senate Bill No. 355 — Expanding the Concept of the Condominium Act

Senator Romulo. Mr. President, I move that we consider Senate Bill No. 355 as reported out under Committee Report No. 15.

The President. Consideration of Senate Bill No. 355 is now in order. With the permission of the Body, the Secretary will read only the title of the bill.

The Secretary. Senate Bill No. 355, entitled

AN ACT EXPANDING THE CONCEPT OF CONDOMINIUM AND FOR OTHER RELATED PURPOSES, THEREBY AMENDING REPUBLIC ACT FORTY-SEVEN HUNDRED AND TWENTY-SIX, ENTITLED AN ACT TO DEFINE CONDOMINIUM, ESTABLISH REQUIREMENTS FOR ITS CREATION AND GOVERN ITS INCIDENTS.

The following is the full text of Proposed Senate Bill No. 355:

EXPLANATORY NOTE

One of the deterrents for the inflow of investments into productive enterprise is the failure to provide for the investor's needs in the acquisition of interests in real property including buildings owned, in common with others, such as residential, industrial or commercial buildings on a long-term basis. This problem was partly addressed by Republic Act No. 4726, entitled

AN ACT TO REFINE CONDOMINIUM, ESTABLISH REQUIREMENTS FOR ITS CREATION, AND GOVERN ITS INCIDENTS.



**REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE**

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foreign investments come in, to join our own domestic entrepreneurs in bringing our country on the road to economic recovery and development, we are not giving away the store.

It is in the light of all these considerations, Mr. President, that we urge our Colleagues to approve Senate Bill No. 356 as incorporated in Committee Report No. 8 of the Committee on Economic Affairs.

Thank you.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, with the permission of the distinguished Sponsor, I ask that we suspend consideration of Senate Bill No. 356.

Senator Tolentino. Mr. President.

The President. Senator Tolentino is recognized.

Senator Tolentino. Before action is taken on the motion of the distinguished Floor Leader, I would just like to make of record that I filed a dissent to this Committee Report, and I would like to reserve a turn to speak against the bill.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 356

Senator Romulo. Mr. President, the reservation of the distinguished Senator is taken. With that request, Mr. President, I ask that we suspend consideration of the bill.

The President. Is there any objection to the suspension of consideration of Senate Bill No. 356 as embodied in Committee Report No. 8? [*Silence*] There being none, the motion is approved.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, before we consider Senate Bill No. 695, the bill on the Department of Energy, I ask that we suspend the session for one minute.

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

It was 6:10 p.m.

RESUMPTION OF THE SESSION

At 6:18 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING

Senate Bill No. 695 — Creating the Department of Energy (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 695 as reported out under Committee Report No. 5.

The President. Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo. Mr. President, we are still in the period of committee amendments. I ask that the Chairman of the Committee on Energy, the distinguished Senator from Isabela, Senator Heherson Alvarez, be recognized.

The President. For the record, is it understood that a clean copy of Senate Bill No. 695 marked "Amended as of October 7, 1992" and distributed to the Members of this Body shall be the basis of discussions now and hereafter?

Senator Alvarez. Yes, Mr. President, in accordance with the proceedings of the last session.

The President. Proceed, please.

Senator Alvarez. As of the last session, Mr. President, there were approved Committee amendments and they are indicated in bold prints in the copy that has been distributed. We will now proceed to the additional Committee amendments, which are differentiated with all CAPS (capital letters) in the distributed copy.

With that, may I now proceed?

On Section 7, page 3; line 12, after the word "agencies", delete the word "corporations."

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

Senator Guingona. I thought we would go through the whole amendments, Mr. President, and I was going to ask some questions in Section 1.

Senator Alvarez. Mr. President, we are now in the period of Committee amendments. The Committee has some proposed amendments which heretofore have not yet been approved. I am now proceeding to introduce the Committee amendments which have not yet been approved.

Senator Guingona. Are we to understand, Mr. President, that the Body has already approved the Committee amendments in Section 1?

The President. Yes, in the last session.

Senator Guingona. The last session.

Senator Alvarez. There will be an opportunity for that, Mr. President, when we get to the individual amendments. We can then amend Section 1.

The President. So, we are now on page 3.

Senator Alvarez. Yes, Mr. President.

The President. Particularly on what line in Section 7?

Senator Alvarez. Line 12, after the word "agencies", delete the word "corporations."

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

Senator Alvarez. On page 3, line 13, after the word "agencies", delete the word "corporations" again, Mr. President.

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

Senator Alvarez. On page 3, line 14, delete the phrase "attached or".

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

Senator Alvarez. On page 6, line 33, delete the phrase....

The President. How about page 3, line 16 — deletion of the word "and?"

Senator Alvarez. Yes, Mr. President.

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

Lines 17 to 19.

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

Senator Alvarez. Those are matters of form, Mr. President.

Senator Guingona. May we know from the distinguished Sponsor whether the NAPOCOR today is already deregulated insofar as allowing private entities to put up their own generating powers, as well as having to secure permission to sell to customers other than NAPOCOR?

Senator Alvarez. No, Mr. President, they still have to pass through the authorization or what they call the "accreditation process" by NAPOCOR, and they have to sell to the grid. However, at the instance of the Body, I think sometimes there is a direct connection. They do not pass the cooperatives of big volume consumers.

Senator Guingona. Does this mean, Mr. President, that for the next five years it is only NAPOCOR which can put up generating plants, or it is only the NAPOCOR which has the authority to allow sales of power to other entities? Because if this is the intent, I would certainly object to the same.

The intent of coping with the emergency is to allow competent and able private enterprises to generate their own power in view of the failure and handicap of NAPOCOR, because it is cash-strapped plus other administrative burdens, to generate the required electricity or power for the nation.

Senator Alvarez. Mr. President, may I now respond?

Senator Guingona. Yes, Mr. President.

Senator Alvarez. Under Executive Order, I believe EO No. 215, private entities may be in power systems again in the accreditation. And under the law which we passed here July of 1990, private entities once again can build under a BOT scheme. It is going to be privately funded, privately organized, and after some negotiation on the rate, NAPOCOR will purchase the energy generated by these BOT systems. It does not bar NAPOCOR however, although in policy it should, from building the power systems.

Senator Guingona. And would his answer also be the same or different now for the sale of those private enterprises who sell power? Do they have to pass through NAPOCOR?

Senator Alvarez. Yes, Mr. President. NAPOCOR will purchase the power. We still have the unified grid system so it will pass through the transmission lines of NAPOCOR.

Under the bill, we will have five years to consider that. Taking into account the advice of the Council for Energy Affairs, the President, through the Department, can then undertake the necessary pacing of the deregulation or even the privatization measures of certain activities of the government.

Senator Aquino. Mr. President.

The President. Senator Aquino is recognized.

Senator Alvarez. Mr. President, may I ask that we proceed with the proposed amendments because we are really jumping the gun on issues that will come after these amendments.

The President. But they are pertinent with respect to amendment No. 4. — "STUDY AND RECOMMEND TO CONGRESS WITHIN A PERIOD OF FIVE (5) YEARS, PROPOSALS FOR THE DEREGULATION OF APPROPRIATE ACTIVITIES OF THE ENERGY INDUSTRY; AND".

The fact of the matter is that some aspects thereof in point of generation had already been privatized. There are negotiations now whereby the National Power Corporation will purchase a diesel Grade "C" crude where it will be on a BOT service. A private contractor will build it and the energy to be generated will be sold to the National Power Corporation and if we will recall, during our dialogue with the US Trade Mission, one of the members of the US Mission said that there are now pending negotiations in order that it will install and generate power to be sold to the MERALCO.

Senator Alvarez. Mr. President, the MERALCO will go on a joint venture and like any power system will generate the energy needed. The energy may be sold to the grid. And in this particular case, because the MERALCO is a buyer from the grid, then it can also be used like the Congentrix Program of Caltex directly by the consumer which will then sell to the retail market. This is still under Executive Order No. 215, and it is not in conflict with these proposed amendments.

The President. What we are merely alarmed is the Gentleman's answer to the query of the Minority Leader that there are already certain aspects in the power industry that had been privatized and deregulated.

Let us hear from Senator Aquino.

Senator Aquino. I wanted to add, Mr. President, that in actual practice, while they are selling to NAPOCOR power, the problem is NAPOCOR dictates the price. In other words, they do not buy the price per the amount that NAPOCOR generates power. If NAPOCOR generates, there is a certain cost, and they sell this power based on that cost. But NAPOCOR wants to buy it lower than that cost. That is the reason why it is useless to sell it to NAPOCOR as long as they dictate the price. They should sell it at the cost of how much they generate and sell power. That is more equitable.

The President. The Chair would want to know, is there any law that prohibits, let us say, the Manila Paper Mills, to install a

generating plant that would be worth P100 million for the purpose of generating the power that it wants to use in the course of its expansion?

Senator Alvarez. No, Mr. President.

The President. There was none.

Senator Alvarez. If they are selling it to the general public, that is an entirely different thing.

As a matter of fact, one can put his own generator and then serve his needs. But it is cheaper to buy from the grid because this is a mass-produced power.

If one wants to generate power just to sell to the general public, one must negotiate with NAPOCOR. Under EO No. 215, when the price is negotiated, then one can build on BOT schemes.

The President. Before us is the Committee amendment appearing on lines 17, 18 and 19. Is it not?

Senator Alvarez. Yes, it is accepted already, Mr. President.

The President. Is there any objection thereto?

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. The last amendment that I heard, Mr. President, was to delete the word "and."

The President. That is page 3, line 16.

Senator Osmeña. So, what is before the Body now, Mr. President?

The President. Lines 17, 18 and 19.

Senator Osmeña. Which is the amendment that says: "STUDY AND RECOMMEND TO CONGRESS WITHIN A PERIOD OF FIVE (5) YEARS, PROPOSALS FOR THE DEREGULATION OF APPROPRIATE ACTIVITIES OF THE ENERGY INDUSTRY."

The President. That is correct.

Senator Osmeña. And I would like to address some questions. But since Senator Maceda is here, Mr. President, I will yield to him.

The President. Yes. The President Pro Tempore is recognized.

Senator Maceda. Just for the record, Mr. President, I was the one who amended this last time, and proposed this final formulation.

If my memory is correct, this is already an approved amendment.

Senator Alvarez. That is correct, Mr. President. This is already an approved amendment.

The Senate President was just cleaning up the dangling conjunction.

Senator Maceda. What I mean is, regarding lines 17 to 19, being an approved amendment, just like the other approved amendments, we should discuss any amendment to these lines 17 to 19 after the Committee amendments are presented, Mr. President.

The President. That is correct. But the Chair assumes that all of these, in bold prints, are approved Committee amendments.

Senator Alvarez. Yes, Mr. President.

Senator Angara. Just a point of inquiry, Mr. President.

The President. The Gentleman from Baler is recognized.

Senator Angara. The fact that this has been accepted by the Body as Committee amendment does not preclude any one of us from introducing an individual amendment to it. Am I correct?

Senator Alvarez. Yes, Mr. President. Seasonably.

Senator Angara. What does the Gentleman mean by seasonably, Mr. President?

Senator Alvarez. Since this has already been approved, when we come to the individual amendments, the Gentleman may offer his amendments to the amendments.

SUSPENSION OF THE SESSION

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

It was 6:33 p.m.

RESUMPTION OF THE SESSION

At 6:53 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. In the matter of the Committee amendments being proposed by the distinguished Chairman of the Committee on Energy on Senate Bill No. 695, we have proposed that he prepare a revised Committee Report which would contain all the so-called Committee amendments. Thereafter, we will consider that revised Committee Report as the basis for our consideration of individual amendments.

The President. So from thereon, if it is accepted as the working basis, then the time for individual amendments is already proper.

Senator Romulo. That is correct, Mr. President.

Senator Alvarez. Mr. President, the Committee will have no objection to that.

The President. The Minority Leader is recognized.

Senator Guingona. Mr. President, just to clarify. Under that proposal, are we to understand that all previous amendments already approved shall no longer be considered as having been approved by the Body? Because there may be a technical difficulty, since the Rules allow only one amendment to the amendment. A technical objection may be raised if this is not clarified.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, we shall ask the approval of this Chamber for the consideration of the revised Committee Report as the basis for our considering this bill, and the basis for the proposed or subsequent amendments.

Senator Guingona. I have no quarrel with that, Mr. President. All I wanted was a clarification.

For example, in the case of the deregulation, study and recommendation within five years, this was already approved by the Body and an amendment to amend that further may raise technical objections. If the Body says now: "All right. We will do away with the technical objections," fine. I just wanted to clarify the same.

The President. The Majority Leader is recognized.

**MOTION OF SENATOR ROMULO
(Reconsideration of Amendments on Senate Bill No. 695)**

Senator Romulo. Mr. President, to meet these so-called "technical issues," then we can ask that we reconsider all the previous amendments so that we can consider the revised Committee Report as the basis, and I think there should be no problem there.

So, Mr. President, I move that we reconsider all the Committee and/or individual amendments that have been proposed so far so that the Committee Chairman can then present to us a revised Committee Report.

The President. The Senate President Pro Tempore.

Senator Maceda. With one reservation, Mr. President. If the revised Committee Report will only embody those that are in the distributed draft today which we started to consider, then I will have no objections. But, I have the reservation that if the Committee would like to add new amendments in the revised draft, then there must be a Committee meeting to approve the new proposed Committee amendments other than those already distributed today.

Senator Alvarez. Mr. President, if we should have any additional amendments, we make the reservation to introduce them during the period for individual amendments. All that will be reproduced here are the Committee amendments that have been previously approved and the proposed Committee amendments as appearing today in the draft.

The President. Is that clear now?

Is there any objection to the motion of the Majority Leader? [Silence] There being none, the motion is approved.

**SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 695**

Senator Romulo. Mr. President, may I therefore ask that we suspend consideration of Senate Bill No. 695 until tomorrow when we get the revised Committee Report to be presented to us.

The President. All right, is there any objection to this motion? [Silence] There being none, the motion is approved.

**CONFERENCE COMMITTEE ON SENATE BILL NO. 132
(Retirement Benefits to Private Sector Employees)**

Senator Romulo. Mr. President, may I ask the consent of this Chamber to the designation of the following Conferees on the Bicameral Conference Committee on Senate Bill No. 132, Retirement Pay for the Private Sector, namely, Senators Herrera, Maceda, Romulo, Angara, Ople, and Guingona, Jr.

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

ADJOURNMENT OF THE SESSION

Senator Romulo. Mr. President, there being no other matters to be taken up in this evening's session, I move that we adjourn the session until three o'clock tomorrow afternoon.

The President. Is there any objection? [Silence] There being none, the session is hereby adjourned until three o'clock tomorrow afternoon.

It was 6:54 p.m.



**REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE**

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Senator Herrera. Ano po ba ang percentage ngayon sa foreign films at saka local films?

Senator Revilla. Wala pong pinagkaiba, Ginoong Pangulo, pareho iyan.

Senator Herrera. Pareho rin ang taxes.

Senator Revilla. Pareho po ang taxes.

Senator Herrera. Kaya malakas talaga ang competition ngayon between local and foreign films.

Senator Revilla. Ayon po sa ibang mga producer na nakausap ko kamakailan, nakakakuha sila nang malaki sa mga foreign pictures ngayon. Mas malaki ang kita ng local pictures kaysa foreign pictures.

MOTION OF SENATOR HERRERA
(Referral of Senator Revilla's Speech to the Committees on Ways and Means and Games and Amusement)

Senator Herrera. Thank you, Mr. President.

Mr. President, I would like to propose that the speech of the Senator from Cavite be referred to the Committees on Ways and Means, and Games and Amusement.

The President Pro Tempore. Is there any objection? [*Silence*] There being none, the speech of the distinguished Senator from Cavite who started his illustrious movie career with Sampaguita Pictures, is hereby referred to the Committee on Ways and Means and the Committee on Games and Amusement.

Senator Revilla. Marami pong salamat, Ginoong Pangulo.

Senator Romulo. Mr. President.

The President Pro Tempore. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, I ask that we suspend the session for a few minutes.

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

It was 5:11 p.m.

RESUMPTION OF THE SESSION

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

The President Pro Tempore. The session is resumed.

BILL ON SECOND READING
Senate Bill No. 695 — Creating the Department of Energy
(Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 695.

The President Pro Tempore. Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo. Yesterday, Mr. President, we agreed to take up Senate Bill No. 695, as revised, which already includes the committee amendments. Therefore, I ask that we now resume consideration of Senate Bill No. 695 for the individual amendments.

I ask that the Sponsor and the Chairman of the Committee on Energy, Senator Heherson Alvarez, be recognized.

Senator Guingona. Mr. President.

The President Pro Tempore. The Minority Leader is recognized.

Senator Guingona. Just a simple inquiry, Mr. President. We received this October 12 revised copy only this afternoon, and the latest before that was October 7. We would just like to inquire from the distinguished Sponsor, what are the differences between the October 12 and October 7 copies or versions?

Senator Alvarez. The October 12 copy is in accordance with the undertaking that all the proposed and approved Committee amendments would be reflected, and they are indeed reflected except for a minor inadvertence on page 4, line 19, which was inadvertently not deleted.

Senator Guingona. Is it the same as the October 7 copy?

Senator Alvarez. The same, Mr. President.

Senator Guingona. That is all I wanted to know.

The President Pro Tempore. There being no objection to the consideration of the revised copy as of October 12, as the basis for individual interpellations and/or amendments, the Gentleman from Quezon City and Leyte, Senator Mercado, is now recognized.

Senator Mercado. Mr. President, my proposed amendment is on page 1, line 4, unless there are other anterior amendments.

The President Pro Tempore. The Gentleman from Aurora is raising his hand and he is recognized.

Senator Angara. Thank you, Mr. President.

Mr. President, if the distinguished Sponsor will consider it, may I offer a substitute provision to the Declaration of Policy. My amendment will read as follows:

"It is hereby declared the policy of the State TO ACHIEVE SELF-SUFFICIENCY IN THE COUNTRY'S ENERGY REQUIREMENTS, TO PROMOTE SUSTAINABLE DEVELOPMENT OF ENERGY RESOURCES, AND TO FOSTER DEREGULATION AND PRIVATE SECTOR PARTICIPATION IN THE ENERGY SECTOR".

The proposed amendment, Mr. President, embodies four basic ideas. Self-sufficiency in energy, sustainable development, deregulation, and private sector participation, which, if I understand it right, is the philosophy that this bill hopes to achieve.

The President Pro Tempore. The Chair would like to suggest that when it is a paragraph such as this or longer, the proposed amendment be duplicated and distributed to the Members of the Senate.

So I will suspend the session so the same can be distributed, and if other Senators have equally long amendments, will the Gentlemen kindly have them duplicated now for distribution?

Senator Alvarez. But before we do that, Mr. President, let me express the thought that, indeed, there are four elements, and the committee will accept an amendment which will embody these four elements in this Declaration of Policy.

The four elements that are embraced in the totality of this bill, as it has been designed, are the following: The element of rationalization and coordination of the different energy activities. Rationalization and coordination, Mr. President, are very crucial because of the history of how this thing is evolved. And self-sufficiency is very well-taken, but self-sufficiency with efficiency. I mean, we can be self-sufficient but we can also be wasteful. And then, afford an expanding private sector participation and towards the regime of deregulation.

If all these four elements, Mr. President, are embodied, then we will welcome what may be a more cogent expression of this.

So before we take a break, I would like the Proponent to take those elements into consideration.

Senator Mercado. Mr. President.

The President Pro Tempore. Senator Mercado is recognized.

Senator Mercado. Mr. President, I was also about to propose an amendment to the Declaration of Policy. And the other concept that I wanted to be part of this declaration would be the concept of providing for an energy policy whose thrust is developing energy that is environmentally sound and socially equitable.

Oftentimes in the energy development, those who benefit from the exploration and the exploitation of energy resources are only few and the benefits do not filter down to the great masses of our people who really need them. And also the matter of exploitation of our resources for energy purposes should always consider environmental requirements. This should be a condition *sine qua non*.

Senator Angara. Can we have a one-minute break, Mr. President?

The President Pro Tempore. Yes. Precisely, I was about to suggest that, Gentleman from Aurora.

I am now in possession of another paragraph of Declaration of Policy being proposed by the Gentleman from Catanduanes. The Chair also has substantial questions to ask on the Declaration of Policy as now proposed by the Gentleman from Aurora. I was wondering how the Chair and the Sponsor will handle this matter, considering that, even on this section, there are different proposals on the Declaration of Policy.

Senator Alvarez. Mr. President, we only have to cull the elements that have to be embodied and we can enumerate them very distinctly apart. Then we can put them together.

There are many ways, so to speak, of skinning the cat, and it is a matter of literary expression in organizing these seminal ideas which constitute the Declaration of Policy. That is why I was inviting the Proponent to consider the broad ideas which went into the crafting of this bill. Because we cannot create a Declaration of Policy apart from what we are trying to achieve.

The mechanism and the flesh and bones are in the bill, but what we have in the Declaration of Policy are like the statement of goals which have already been achieved in the bill itself.

The President Pro Tempore. I have no problem with that, Gentleman from Isabela. What I am just pointing out is a matter of procedure. If there are four different statements of policy being submitted, certainly, we cannot discuss and cull all the elements on the Floor in open session. Probably, the more workable system would be the four or five Senators, who have different declarations

of policy, to get together and come out with a consolidated draft of Section 1 which is acceptable to the Sponsor. But, certainly, between the old section, which is the Gentleman's original one, the proposal of Senator Angara and the proposal of Senators Tatad and Mercado, and my observations — I do not know the Minority Leader's — I do not think that we can really take it up on the Floor, line by line, or try to dissect all the elements on the Floor.

SUSPENSION OF THE SESSION

So, we will declare a recess, if there is no objection. [*There was none.*]

It was 5:42 p.m.

RESUMPTION OF THE SESSION

At 5:55 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Will the Gentleman from Aurora now propose the amendment jointly submitted by Senators Angara, Mercado, Roco, Tatad, Guingona, Sotto and Maceda.

Senator Angara. With pleasure, Mr. President.

"Section 1. *Declaration of Policy.* — It is hereby declared the policy of the State to ACHIEVE SELF-SUFFICIENCY IN ENERGY, ENCOURAGE SUSTAINABLE DEVELOPMENT OF ENERGY RESOURCES, FOSTER EFFICIENT RENEWABLE AND INDIGENOUS ENERGY SOURCES AND PROMOTE PRIVATE SECTOR PARTICIPATION WITH MINIMUM GOVERNMENT REGULATION."

The President Pro Tempore. What does the Sponsor say?

Senator Alvarez. Will the Gentleman please cull the elements of this new Declaration of Policy, Mr. President?

The President Pro Tempore. Could we use another term for the word "cull"?

Senator Angara. Pluck out. Can we distill the essential ideas....

Senator Alvarez. The seminal ideas of this....

Senator Angara. Senator Guingona objects to the use of the word "seminal".

Senator Guingona. Yes, Mr. President.

The President Pro Tempore. Yes, Senator Roco also objects because it is sexist; because it only refers to one gender.

Senator Roco. Yes.

Senator Angara. Mr. President, if I may. This combined effort at stating the Declaration of Policy conveys: (1) self-sufficiency in energy; (2) sustainable development; (3) efficient development of renewable and indigenous energy sources; and (4) the positive encouragement and promotion of private sector participation in the energy sector with minimum government regulation. Those are the key ideas embodied in this Declaration of Policy, Mr. President.

Senator Alvarez. Does the word "efficiency" embrace rationalizing, Mr. President?

Senator Angara. Yes, Mr. President. The idea of rationalization is implied in the very statement of this policy.

Senator Alvarez. In this collective proposal for amendment, Mr. President, we now have the totality of wisdom in plucking out all the component elements vital to the making of this law. I welcome this amendment.

Senator Angara. Thank you, Mr. President.

Senator Guingona. Mr. President.

The President Pro Tempore. The Minority Leader is recognized.

Senator Guingona. Mr. President, may I just seek certain clarification from the Sponsor of the amendment as far as "promote private sector participation" portion is concerned.

We have no quarrel with that as a principle, Mr. President. But we are now faced with an energy calamity or emergency. The nature of the problems not only in NAPOCOR, not only in the electrification administration, not only in the petroleum and exploration industries require real intervention until we can lick the problem or the emergency.

One way to do that, of course, is to allow BOT. But in other phases, we would certainly need to have a strong government intervention and political will. That is why this bill calls for supervision and control.

Since the idea of "foster private sector participation" is really deregulation, perhaps, the deregulation or the private sector participation should come at the right time, in the right manner and in the right places. Although this is a policy, a generalized

mandate, we feel that that should be spelled out and clearly understood so that this last portion of "promote private sector participation" will be taken in that context. Let us lick the emergency first.

Senator Alvarez. Mr. President, may I ask a clarificatory question, because this is the understanding of the Committee, whether the word "promote" assumes regulation. In fact, we are on a regime of regulation, and we are moving towards deregulation by promoting more private sector participation with a minimum of government participation.

So when we are promoting it, there is an underlying assumption, as will be shown here in the body of the bill, that we are, as a matter of fact, not abandoning the regime of deregulation, but at an opportune time, we will move towards that. Because the recommendation will be made by the council of advisers, by the Secretary to the Cabinet or to Congress, when and if we should move into deregulation.

Senator Angara. Mr. President, if I may comment. I think we are moving here on two levels — on the policy level and on the implementation level. On the policy level, we are saying that the department must invite the participation of the private sector.

The participation of the private sector is without regard to a regime of regulation or deregulation because we want them to be in. Of course, if it is a regime of deregulation, then we encourage the private sector to come in more quickly and more massively than under a regime of regulation. So I do not see any problem with this kind of statement in the Declaration of Policy.

What the distinguished Minority Leader is saying, is that we ought not to move into deregulation immediately. I agree. That is why under the conception of the Sponsor, the matter of implementation — here we are moving into the implementation stage — the matter of the timing of deregulation is left to the Secretary of Energy. But it is not inconsistent with this Declaration of Policy.

Senator Guingona. As long as that is understood and spread into the *Record*, Mr. President, I have no objections.

Senator Angara. That is my clear understanding of this scheme, Mr. President.

The President Pro Tempore. Is there any objection to the proposed Angara amendment, as accepted by the Sponsor?

Senator Alvarez. May we ask the Sponsor, Mr. President, to reread the amendment.

Senator Angara. Mr. President, the substitute amendment reads as follows:

"SECTION 1. *Declaration of Policy*. — It is hereby declared the policy of the State to ACHIEVE SELF-SUFFICIENCY IN ENERGY, ENCOURAGE SUSTAINABLE DEVELOPMENT OF ENERGY RESOURCES, FOSTER EFFICIENT RENEWABLE AND INDIGENOUS ENERGY SOURCES, AND PROMOTE PRIVATE SECTOR PARTICIPATION WITH MINIMUM GOVERNMENT REGULATION."

Senator Alvarez. Mr. President, may I request for a rereading without that vast gap and interruption so that we can have it on the record?

Senator Angara. Maybe, we can ask the Secretary to read it. Anyway, I will read it, Mr. President.

SECTION 1. *Declaration of Policy*. — It is hereby declared the policy of the State to ACHIEVE SELF-SUFFICIENCY IN ENERGY, FOSTER EFFICIENT RENEWABLE AND INDIGENOUS ENERGY SOURCES, ENCOURAGE SUSTAINABLE DEVELOPMENT OF ENERGY RESOURCES, AND PROMOTE PRIVATE SECTOR PARTICIPATION WITH MINIMUM GOVERNMENT REGULATION."

Senator Guingona. Mr. President.

The President Pro Tempore. The Minority Leader is recognized.

Senator Guingona. Would the distinguished Sponsor agree to deleting "WITH MINIMUM GOVERNMENT" intervention at this stage, anyway?

Senator Angara. We cannot, Mr. President, because that is an essential element in the whole conception of this bill. Even the Sponsor anticipates that at some future date, the government will divest itself of the regulatory thicket that surrounds the energy industry.

Senator Guingona. That will come in the latter portion of the bill, Mr. President.

Senator Angara. Yes, but, I think, it is imperative that we state it at the very beginning as a statement of mission, as a statement of policy. His concern about timing, we can, in fact, postpone it to some other provision in this section. But to ask that this be deleted is, I think, to impair the integrity of the whole mission statement.

Senator Guingona. Therefore, would the distinguished Sponsor agree to promote private sector participation on the proper levels?

Senator Angara. I do not accept, Mr. President, because that kind of amendment can very well go into later sections, maybe into the powers of the department.

Senator Guingona. No, but this seems inconsistent, Mr. President.

Senator Angara. Not at all, Mr. President. As I explained at the beginning, there is no inconsistency with active promotion of private sector participation and a regime of regulation which the Gentleman appears to be very strong on. But if we read the whole proposed bill, the trend really at the end is a regime of deregulation. The only reservation we have is on the timing and on the specification of the areas that will be regulated. And even during the committee meetings and caucuses, we say that pricing, for instance, cannot be deregulated immediately, but there are other areas that can be deregulated immediately. But we leave the timing and the pacing of deregulation to the Secretary of Energy.

I think that is the main conception of this bill. And if we accept the Minority Leader's amendment, Mr. President, then it is not a complete statement of the purpose of this department.

The President Pro Tempore. The Minority Leader is recognized.

Senator Guingona. If the distinguished Sponsor accepts, and as we do also, that it is only a question of time and a question of where and when that deregulation or encouragement of private initiative should come in, then why not embody that in the policy statement itself?

Senator Angara. Because the element of government regulation goes against the grain of a deregulated regime. But still, we accept that there are certain areas in energy where we cannot forego regulation.

Therefore, we accepted the President Pro Tempore's formulation of this statement of encouraging private sector participation with minimum government regulation, recognizing that certain areas of the energy industry cannot just be deregulated.

Senator Guingona. Under this proposal, Mr. President, the Secretary would be encouraged to sell PNOC or privatize PNOC, and thereby, in a manner, defeat the very purpose of trying to achieve self-sufficiency.

We have no quarrel with privatizing it later on when we already have self-sufficiency. But PNOC, Mr. President, is in charge of generating power.

Senator Angara. There is nothing in this mission statement, Mr. President, that says that government now must privatize PNOC.

But if government has — and, in fact, I think this government has — already decided to privatize Petron, not PNOC, then by all means, we are for that. But there is nothing in this Declaration of Policy that says that government must now go into privatizing PNOC.

So I think the issue that the Gentleman is introducing is not appropriate in this Section 1.

Senator Guingona. May I ask for a one-minute suspension, Mr. President.

The President Pro Tempore. Before we do, is the Gentleman from Catanduanes intending to participate in this debate?

Senator Tatad. Yes, Mr. President.

The President Pro Tempore. Let us listen to the Gentleman from Catanduanes before we suspend the session.

Senator Tatad. On the text of the section, Mr. President, I was going to ask the distinguished Sponsor of the amendment to consider replacing the word "participation" after "private sector" with the word INITIATIVE.

SUSPENSION OF THE SESSION

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

It was 6:11 p.m.

RESUMPTION OF THE SESSION

At 6:18 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Will the Gentleman from Aurora restate the final version of the integrated amendment?

ANGARA AMENDMENT

Senator Angara. Yes, Mr. President. The amendment now reads:

"SECTION 1. *Declaration of Policy.* — It is hereby declared the policy of the State to ACHIEVE SELF-SUFFICIENCY IN ENERGY, FOSTER SUSTAINABLE DEVELOPMENT OF ENERGY RESOURCES, ENCOURAGE EFFICIENT RENEWABLE AND INDIGENOUS ENERGY SOURCES AND PROMOTE PRIVATE SECTOR INITIATIVE WITH APPROPRIATE MINIMUM GOVERNMENT REGULATION."

Senator Alvarez. Mr. President, all the strategic and vital concepts of a policy statement are captured in this proposal.

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

Senator Roco. Mr. President.

The President Pro Tempore. The Gentleman from Camarines Sur and Bohol is recognized.

Senator Roco. On line 9, Mr. President, may we ask the Chairman to bear with us with this recommended amendment, because it does not have to look as radical as it would initially appear.

But may we delete, Mr. President, the whole of Section 2 for brevity and because (a), the "Department" is already referred to in Section 3 and that is the only time it appears; (b), "Energy Projects" is not referred to as the defined term; and (c), "Board" is also referred to in Section 12. Only once, "Energy Regulatory Board, hereinafter referred to as the "Board".

So that if at all, Mr. President, we should have a definition of terms, we should define the terms used in the "Declaration of Policy", but after all the debate. Because right now, the "a", "b", "c", may be largely unnecessary.

The President Pro Tempore. The Chair would like to inquire from the Gentleman from Camarines Sur and Bohol whether there is really a need to define "energy" as stated in the Declaration of Policy.

Senator Roco. Not necessarily "energy", Mr. President. But the suggested terms to be defined may need no definition in the context of the bill.

Senator Mercado. Mr. President.

The President Pro Tempore. The Gentleman from Quezon City and Leyte is recognized.

Senator Mercado. Mr. President, I support such an amendment. I wanted to amend the definition of "energy projects" because here we speak of storage of all forms of energy products and resources, and I am afraid this would include nuclear energy in spite of the fact that we have not really made a policy determination whether we are going nuclear or not. In fact, my formulation would have been an amendment wherein we spell out what we mean by "resources". But if the Body will accept an amendment to omit or delete the entire section, then that will no longer be necessary.

The President Pro Tempore. The Chair, of course, would like to encourage or to foster, as much as possible, that as much as part of the original bill as prepared by the Sponsor should be allowed to stay. Deleting provisions wholesale may not really be a very good policy of encouraging our sponsors to work hard on their bills.

Senator Roco. May we then go line by line, Mr. President, if that is the desire of the Chairman.

May we ask then the Sponsor why "Department" should be defined when in Section 3 it says, "Department of Energy hereinafter referred to as the Department...", and that is about the only time we used "Department".

Then "Energy Projects", Mr. President, I would want to know where this defined term is used because I could not find it. And it is a fairly complex definition.

On the other hand, "Board", I would want to know also why we have to define "Board" when in Section 12 that is exactly what we say. It says, "through the Energy Regulatory Board, hereinafter referred to as the "Board".

Then thereafter we say, "The Board shall continue...".

That is my only concern. If that can be explained to me, Mr. President, then, maybe, we can also withdraw the proposed amendment.

The President Pro Tempore. Just to help out, the Chair is scanning the bill and sees that the word "Department" is used about eight times in different paragraphs.

Senator Roco. Yes, but it is defined in Section 3, Mr. President, whereas, "energy projects", I am not sure where it is used as defined.

The President Pro Tempore. On page 3, line 9, what is used — I do not know whether this is just an oversight — is "energy products and resources". This could very well be "energy projects and resources".

Senator Roco. Page 3. What line, Mr. President?

The President Pro Tempore. Line 9.

Senator Roco. "...establish policies and standards." I am sorry, I am looking at another copy.

Senator Osmeña. Mr. President.

The President Pro Tempore. The Gentleman from Cebu is recognized.

Senator Osmeña. Mr. President, with the permission of the Gentleman on the Floor, that line reads "stockpiling and storage of all forms of energy products" that is why the word "products" there is correct.

Senator Roco. Yes, Mr. President. Even in the original copy, it is the same. But "energy projects," as defined, I really could not trace it. "Department" is already defined in Section 3.

Senator Alvarez. "Energy projects," Mr. President, is on page 8, line 30.

Senator Roco. So this is the only time it is used.

The President Pro Tempore. On line 30, page 8.

Senator Roco. And this is the only time they refer to all activities.

Senator Alvarez. Mr. President, the reason is not only its appearance here, but the fact that there are so many facets of energy projects which are embraced within the contemplation of the law. That is why we had to have a definition of "energy project" in order to capture the breadth of responsibility.

Senator Roco. Can we just go line by line then, Mr. President?

Does the Sponsor want to retain the definition of "Department"?

Senator Alvarez. We can do away with that, Mr. President.

Senator Roco. All right. "Energy projects" then is proposed to be retained. But with so many qualifiers, Mr. President, what does it mean? When an activity, for instance, is not initiated or regulated by the department, is it no longer an energy project? Supposing somebody had biomass in his backyard. This is not an energy project in contemplation of the law because, as defined, it refers to those activities only that are encouraged and regulated by the department and its attached agencies.

Senator Alvarez. Mr. President, biomass is referred to incidentally here as a nonconventional source of energy. If the department finds it vital enough, as it does, because it tends to encourage it, it would consider it as an energy project.

Senator Roco. But, as defined, Mr. President, because it is conjunctive, they refer to "activities or projects initiated, planned, coordinated, supervised, encouraged and regulated by the

Department." So backyard biomass or whatever it is, does not appear to be an energy project in the definition.

Senator Alvarez. Yes, Mr. President. It does not mean to say that because it is a private project, it should also be a project in the contemplation of the exercise of power of the department.

Senator Roco. Can we get that clear, Mr. President? So an energy project that is purely private is not covered by the bill.

Senator Alvarez. No, Mr. President. That is not the total implication there.

Senator Roco. That is one of the reasons, Mr. President, I thought maybe the Sponsor may consider. If the Sponsor wishes, we can suspend consideration of this definition until later.

Senator Alvarez. Perhaps, Mr. President, it is the terminology here because it has to be either "encouraged" or "regulated." If it is "encouraged" it should be "and/or regulated by the department." It will still fall under the contemplation of an energy project.

Senator Roco. I can withdraw my proposal, Mr. President, on "b)" and, therefore, leave it to the....

Senator Alvarez. Mr. President, I hesitate to go along with the proposed neatness in removing this provision. In fact, the intention here is to contemplate the broad application of the rules for energy activities, that is why we are trying to make a definition which will express that breadth of activity.

Senator Roco. I am not clear, Mr. President, on what we are saying. What are we saying? That we want all energy projects to be regulated by the department or those energy activities that are not regulated by the department are outside of the scope of this law, as proposed.

Senator Tatad. Mr. President.

The President Pro Tempore. The Gentleman from Catanduanes is recognized, with the permission of the Gentlemen on the Floor.

Senator Tatad. With the permission of my Colleague from Camarines Sur, may I offer a way out. May I propose that we delete from line 11 beginning with the word "initiated" until line

The President Pro Tempore. What page are we?

Senator Roco. On page 1, Mr. President.

Senator Tatad. On page 1, Mr. President.

Senator Alvarez. What copy is the Gentleman using? It should be the October 12 copy.

Senator Tatad. I am sorry. On page 1, Mr. President, we delete from line 15 beginning with the word "initiated" up to "instrumentalities" on line 17. So that the term "Energy Projects" would be known according to the activity, rather than according to whether the department is regulating it or encouraging it, et cetera.

Senator Alvarez. How will that read, Mr. President?

TATAD AMENDMENT

Senator Tatad. So letter "b)" will read: "Energy Projects shall mean all activities or projects relative to the exploration, extraction, production, importation-exportation, processing ..." The rest of the paragraph is undisturbed.

Senator Alvarez. "...relative to the exploration, extraction, production, importation ..."

Senator Tatad. We did not add anything. We just deleted some words.

Senator Roco. If that is deleted, Mr. President, then it may be a valid definition.

Senator Alvarez. We accept that amendment, Mr. President.

The President Pro Tempore. Just a minor amendment before we finalize. With that deletion on line 20, is the right word on the last line "and" or OR — "stockpiling OR storage", meaning to say, any of the activities OR?

Senator Roco. Yes, it should be OR. It should be proposed as an amendment also, Mr. President.

Senator Alvarez. OR.

The President Pro Tempore. Because if it is "and", there is an implication that this is all cumulative and concurrent; if it is OR that means to say "any." It depends on the intention of the Sponsor.

Senator Alvarez. Stockpiling is for building an inventory. Storage is to keep a static volume for some future use.

The President Pro Tempore. No, what I mean is, if we use the word "and," the implication is it means relative to the exploration, and extraction, and production and importation, et

cetera. If we use the word OR, it means to say that we are separating all of these, and it really means "relative to the exploration or to the extraction or to the production or to the importation," et cetera. That is the difference.

Senator Alvarez. I think the more appropriate word here will be OR, Mr. President.

The President Pro Tempore. All right. So the proposal is accepted. To delete from the words "initiated instrumentalities" on line 17, and on line 20 change the word "and" to OR, and it is accepted.

Senator Osmeña. Mr. President.

The President Pro Tempore. The Gentleman from Cebu is recognized.

OSMEÑA AMENDMENT

Senator Osmeña. Mr. President, there is also a very small amendment on line 14. And I propose that we change the words "mean all" to the words BE THOSE. So that the line will read. "Energy projects shall BE THOSE activities or projects relative to the exploration," et cetera.

The President Pro Tempore. It is a question of style. What does the Gentleman say?

Senator Alvarez. It is accepted, Mr. President.

The President Pro Tempore. All right, is there any further amendment in Section 2?

Senator Aquino. Just a question, Mr. President.

The President Pro Tempore. The Gentleman from Tarlac, Senator Aquino, is recognized.

Senator Aquino. On line 21, "all forms of energy products," Mr. President, does this phrase include now nuclear energy?

Senator Alvarez. Yes, Mr. President. What is wrong with that? We do not have a formal definitive position on whether we need nuclear energy for research. As a matter of fact, I, myself, have an objection, but I cannot control here the outcome of a policy which has yet to be decided and very crucial.

Senator Mercado. Mr. President.

The President Pro Tempore. The Gentleman from Leyte is recognized.



**REPUBLIC OF THE PHILIPPINES
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Senator Manibusan has just returned from her original campaign with Pacific Island countries, nations, and territories to halt the shipment of plutonium by Japan from France.

In Manila, Senator Manibusan celebrated the 25th Anniversary of the Medical City General Hospital. She is also the author of establishing Guam's Medical Referral Assistance Office in Manila for patients from Guam seeking off-island medical attention or treatment, especially Makati Medical Center, Saint Luke's Hospital, and Medical City General Hospital.

SUSPENSION OF THE SESSION

Our esteemed Colleague, Senator Blas Ople, told me that Senator Manibusan's mother comes from our Province of Pangasinan. Therefore, we welcome her here. So that we can each extend to her our personal greetings, I ask that we suspend the session for that purpose.

The President. Is there any objection to the said motion? [Silence] There being none, the session is suspended to enable the Senators to greet and acknowledge the presence of Senator Marilyn Manibusan and the members of her party, all of the Guam legislature. [Applause]

It was 3:56 p.m.

RESUMPTION OF THE SESSION

At 3:59 p.m., the session was resumed.

The President. The session is resumed.

Senator Tañada. Mr. President.

The President. Senator Tañada is recognized.

Senator Tañada. May I just make of record that Senator Freddie Webb and Senator Sotto are coauthors of Proposed Senate Resolution No. 170.

The President. Let the same be noted in the *Records*.

The Majority Leader is recognized.

BILL ON SECOND READING

Senate Bill No. 695 — Creating the Department of Energy
(Continuation)

Senator Romulo. Mr. President, I ask that we resume consideration of Senate Bill No. 695, creating the Department of Energy.

The President. Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo. We are still in the period of individual amendments, Mr. President. I ask that we recognize the Sponsor and the Chairman of the Committee on Energy, Senator Heherson Alvarez.

Senator Webb. Mr. President.

The President. The Chair would want to be informed as to whether or not the revised copy of October 12, 1992, a copy of which has been distributed to each and every Member of this Body, already incorporates all the Committee amendments and, therefore, will now be the basis of individual amendments.

Senator Romulo. Yes, Mr. President. It now incorporates all the Committee amendments. And, in fact, we started taking up the individual amendments in yesterday's session based on the revised copy dated October 12.

Senator Webb. Mr. President.

The President. Does the distinguished Sponsor confirm the representation made by the Majority Leader?

Senator Alvarez. It is absolutely right, Mr. President.

The President. So we start now with the individual amendments. Senator Webb, let us start page by page.

Senator Webb. Mr. President.

The President. Senator Webb is recognized.

Senator Webb. This has nothing to do with the amendment, Mr. President. I was listening as the Order of Business was being read. Is it not our rule that if there is an additional Order of Business for the day, it is read on the same day? Because there is an additional Reference of Business, I am asking if it was read earlier.

The President. I was informed by the Secretariat that the additional Reference of Business for this particular session, Wednesday, October 14, 1992, was not read because the Majority Leader immediately stood up and made his motion.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 695

Senator Romulo. Mr. President, I was not aware that there was an additional Reference of Business.

So, may I move that we suspend consideration of Senate Bill No. 695, and ask the Secretary to continue reading the Reference of Business.

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

The Secretary is directed to read the additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 837, entitled

AN ACT AMENDING SECTIONS 82, 85, 86, 90, 91, 92, AND 93 OF BATAS PAMBANSA BLG. 881, OTHERWISE KNOWN AS THE OMNIBUS ELECTION CODE.

Introduced by Senator Sotto.

The President. Referred to the Committees on Electoral Reforms and People's Participation; and Constitutional Amendments, Revision of Codes and Laws.

Senator Sotto. Mr. President.

The President. Senator Sotto is recognized.

Senator Sotto. May I manifest that Senator Romulo is a coauthor of Senate Bill No. 837.

The President. Let that manifestation be made of record.

The Secretary. Senate Bill No. 838, entitled

AN ACT PROVIDING TRAINING, EDUCATION AND CAREER ENRICHMENT PROGRAMS FOR BARANGAY HEALTH WORKERS, AND FOR OTHER PURPOSES.

Introduced by Senator Webb.

The President. Referred to the Committees on Health; and Local Government.

Senator Webb. Mr. President, may I ask for a reconsideration of the approval of the *Journal*. Because it is important to me to ask the Chair that I be allowed to make additional coauthors to Resolution No. 165, these are the following: our Majority Leader, Senator Romulo, Senator Ople, and Senator Tatad.

The President. Is there any objection to the motion for reconsideration of the approval of the *Journal* of the last session for the purpose indicated by Senator Webb? [Silence] There being none, the motion is approved.

BILL ON SECOND READING

Senate Bill No. 695 - Creating the Department of Energy
(Continuation)

Senator Romulo. Mr. President, since there are no speakers for the Privilege Hour, I move that we resume consideration of Senate Bill No. 695, creating the Department of Energy.

We are still in the period of individual amendments, Mr. President. I ask that the Sponsor and Chairman of the Committee on Energy, Senator Alvarez, be recognized.

The President. I saw the Minority Leader rising and raising his hands. What is his pleasure?

Senator Guingona. Mr. President, I would like to preface my proposed amendments with certain questions to the distinguished Sponsor, if he will not mind.

Senator Alvarez. May we now call the attention of the Chair to the fact that we are done with Section 3, and we should now be proceeding to Section 4, "Powers and Functions."

If the Gentleman would like to proffer his amendments with Powers and Functions...

Senator Guingona. Yes, Mr. President.

The President. But there might be some anterior amendments. I saw Senator Tatad rising.

Senator Tatad. Mr. President, I was going to propose an amendment by substitution on Section 4. But before I make that proposal, I think it would be desirable for the Body to know that today is the birthday of the distinguished Sponsor.

SUSPENSION OF THE SESSION

The President. Is the Gentleman moving to suspend the session?

Senator Tatad. Yes, Mr. President.

The President. The session is suspended, if there is no objection, to enable us to make our personal greetings to Senator Alvarez, who is now celebrating his birthday. [There was none.]

It was 4:07 p.m.

RESUMPTION OF THE SESSION

At 4:09 p.m., the session was resumed.

The President. The session is resumed.

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

Senator Guingona. I have here a copy of the proposed amendment of the distinguished Gentleman from Catanduanes and the Bicol Region, Mr. President. However, I was intending to ask certain questions just for clarification prior to making my own proposal and which applies also to the proposed amendment of the distinguished Gentleman from Bicol. So it may save us some time if this Representation is allowed to go ahead.

The President. The Minority Leader, with the consent of Senator Tatad, will take the Floor.

Senator Alvarez. Mr. President.

The President. Senator Alvarez is recognized.

Senator Alvarez. May I ask that following the inquiry or the questions raised by the Minority Leader, the amendments may be introduced or should be prepared for introduction so that we do not lose track of the sequencing of ideas that proceeds from his questioning.

Senator Guingona. Yes, Mr. President.

Senator Tatad. Mr. President, my proposed amendment will attempt to recast the entire section. The reason for this is that in almost every paragraph, the powers and functions pertaining to the department speak of one program or another.

The President. So the Gentleman is referring to Section 4 on page 2 of the revised bill.

Senator Tatad. Yes, Mr. President. From line 11 of page 2 to line 32 of page 3.

The President. All right. Is there any anterior amendment?

Senator Guingona. Yes, Mr. President.

The President. The Minority Leader is recognized.

Senator Guingona. As we stated earlier, my proposal would also affect the proposed amendment, which we have, of the distinguished Gentleman from Bicol. So he will bear with us.

Senator Tatad. Gladly, Mr. President.

The President. All right.

Senator Guingona. Thank you.

Mr. President, may I ask the distinguished Sponsor. Under this proposed bill, who will decide if there is an application for the exploration of an oil project?

Senator Alvarez. It will now be the department. That function currently, Mr. President, is in the auspices of the Office of Energy Affairs. The functions, powers and resources of this office are integrated and absorbed into the department.

Senator Guingona. Which area will be granted?

Senator Alvarez. There is an office of Assistant Secretary somewhere there when we get the appropriate provision, Mr. President, that directly addresses this problem.

Senator Guingona. For how long will the exploration last?

Senator Alvarez. Mr. President, we do not want to go into a detailed provision of that. I do not think we should hamstring the area or the elbowroom for decision-making of the Secretary.

I am sure that when they do the implementing guidelines or when this department or its bureaus will be organized, they will also be guided by the culture and experience of the departments that they are absorbing.

Senator Guingona. The reason I am asking, Mr. President, is that there are already laws which have established the exploration of energy sources. But if we enact this bill as is, it may come to the question of whether we have repealed the previous laws because, as we understand it, there are so many bills relating to energy. For example, Republic Act No. 6173, creating the Oil Industry Commission Act. Then, there is the Act revising the NPC Charter. There are several PDs. The Oil Exploration and Development Act; PD No. 269 on National Electrification, and so on. There are about 15 laws, and unless we specify here that the Secretary would act in accordance with the existing laws, then there may be a question as to whether said laws had been repealed, giving to the Secretary of Justice the power to decide on new terms and conditions for possible exploration. Therefore, we would like to avoid that by introducing an amendment.

Senator Alvarez. I believe, Mr. President, that there is nothing directly or, perhaps, even indirectly, that maybe interpreted here repealing a certain legislation unless it is in controversion of specific provisions of this rule. Besides, if we refer the Gentleman to Section 17, it specifically spells out here the transfer of power

and functions. The rules and executive orders, as the Gentleman mentioned, are currently being administered by these agencies that are now going to be attached to the department. By clear implication, these laws are not being repealed, but since the powers and functions of these agencies are being devolved or being transferred to the new department, therefore, the exercise of these powers will also be upon the department and the newly-attached agencies.

However, Mr. President, if the Gentleman, at some specific point, would like to offer an amendment which he feels would clarify or remove any area of doubt on this specific issue, then we will consider it.

Senator Guingona. I wanted to introduce an amendment that it should be pursuant to existing laws.

Senator Alvarez. Why do we not consider that at the opportune time, Mr. President?

Senator Guingona. This Section 4, precisely, is the opportune time because this relates to the functions of the department. Unless it is understood that the exercise of these functions will be in accordance with previous laws, then we will have to spell out the guidelines because that would be a delegation of legislative power to award, for example, service contracts — on how, under what terms and conditions, and for how long.

If we consider that the old laws are repealed, and there is a general clause here on repeal, then we would be, in effect, giving power to the Secretary to make his own guidelines, which could be questioned as unconstitutional, because there would be an undue delegation of power.

Senator Alvarez. Mr. President, can we consider in more specific terms the proposed amendment of the Gentleman to clarify this point, so that instead of discussing in general terms, we can begin to consider....

Senator Guingona. For example, pursuant to existing laws, wherever applicable....

The President. The Chair now thinks that the proposed amendment of Senator Tatad should take precedence, without prejudice to the right of the Minority Leader to insert whatever amendment he would propose, as the amendments by Senator Tatad are being offered.

Senator Tatad. Thank you very much, Mr. President.

Mr. President, as I said earlier, I propose to amend the entire section by substitution. The reason for this proposal is that on

almost every paragraph from (A) to (I) — I think it is in at least six paragraphs — the section talks of a program, one different from the other.

My view is that the department should formulate and implement an integrated and comprehensive national energy program and that all the other so-called subprograms here should form part of the program. And because of that view, I am proposing that the entire section be recast as follows....

The President. Would it not be proper that this particular amendment, which is an amendment by substitution over a long section, be in writing and copies distributed to the Members of this Body so that we can follow up the said amendment?

Senator Tatad. Mr. President, copies have been distributed and I am sorry if the Chair does not have a copy. I have an extra copy.

The President. Can the Gentleman have an extra copy for the Chair?

At this juncture, the copy of the proposed amendment of Senator Tatad was handed to the Senate President.

The President. The Gentleman may now proceed. The Chair has now a copy of the proposed amendments.

Senator Tatad. Thank you very much, Mr. President.

I propose that the Section now read as follows — from line 11 of page 2.

“(1) Formulate and IMPLEMENT AN INTEGRATED AND comprehensive NATIONAL ENERGY program IN CONSULTATION WITH THE PRIVATE SECTOR, PURSUANT TO THE COUNTRY’S ECONOMIC DEVELOPMENT OBJECTIVES;

“(A) SAID PROGRAM SHALL CONTAIN A COMPREHENSIVE ANALYSIS OF THE COUNTRY’S SHORT-TERM, MEDIUM-TERM AND LONG-TERM ENERGY NEEDS AND PROPOSALS ON HOW TO MEET THEM.

“(B) THE PROGRAM SHALL PROVIDE for an integrated and comprehensive exploration, development, utilization, conservation, STOCK-PILING, STORAGE, TRANSPORTATION, MARKETING AND DISTRIBUTION OF energy resources, with preferential bias for environment-friendly — the phrase is enclosed in inverted commas — and indigenous sources of energy.

“(C) THE PROGRAM SHALL PROVIDE A MECHANISM FOR THE INTEGRATION AND COORDINATION OF VARIOUS ENERGY PLANS AND PROJECTS OF THE GOVERNMENT.

“(D) IT SHALL ALSO INCLUDE PROVISIONS FOR THE ACCELERATED DEVELOPMENT AND COMMERCIAL UTILIZATION OF NON-CONVENTIONAL ENERGY SYSTEMS, AS WELL AS A SYSTEM OF INCENTIVES TO ENSURE A MORE EFFICIENT USE OF energy in all energy-consuming sectors of the economy.

“(E) Said program shall be formulated within (6) months from the effectivity of this Act and submitted to Congress within ten (10) days from its completion and AT THE END OF JUNE OF EVERY YEAR thereafter.

“(2) ENCOURAGE, SUPPORT AND ASSIST QUALIFIED PRIVATE INDIVIDUALS AND CORPORATE ENTITIES INTERESTED IN PARTICIPATING IN the exploration, development, production, importation, exportation, processing, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of energy products and resources;

“(3) UNDERTAKE AND PROMOTE SCIENTIFIC RESEARCH IN ENERGY GENERATION, PROCESSING, UTILIZATION, CONSERVATION AND RELATED ISSUES;

“(4) Formulate such rules and regulations as may be necessary to implement the objectives of this Act; and

“(5) Exercise such other FUNCTIONS as may be necessary to attain the objectives of this Act.”

That is the entire amendment, Mr. President, and it incorporates everything in the original except we thought that we should provide a little more order.

Senator Angara. Mr. President.

The President. Senator Angara is recognized.

Senator Angara. May I ask some clarificatory questions of the Proponent, if that is in order?

The President. Senator Angara may do so, if Senator Tatad agrees to yield.

Senator Angara. Mr. President, I congratulate the Proponent for his expert reformulation of the powers and functions, and for

shortlisting of the powers of the department into (1) Formulation of a master energy plan; (2) Supporting of the private sector; and (3) Promotion of research in energy.

Is it the intendment of the Gentleman that the department will be limited to just these three functions — formulating a master plan on energy, supporting private sector initiative and promoting scientific research? Because I am certain the intent is not really to confine the department to these three areas.

Senator Tatad. Mr. President, I think the department should be guided by our Declaration of Policy, and anything that is contemplated in the Declaration of Policy but not specifically mentioned in the enumeration, may be adequately covered by numbers four and five of the enumeration.

Senator Angara. Yes, Mr. President. For instance, just to take a specific example.

The formulation of a master plan — I can see — is an important function and power of the department. I also appreciate that such a program must have a comprehensive economic analysis; must have a plan for exploration, development, utilization, conservation and distribution; and must provide a mechanism for integrating energy plans of the various entities of government.

But when it comes, for instance, to the accelerated development and commercial utilization of nonconventional energy sources, that is extremely important and must be a separate function that should not be subsumed under a master plan. The future source of energy in this country may come from these non-traditional, nonconventional sources and, therefore, we should not highlight it separately.

Senator Tatad. If this is being proposed as an amendment, Mr. President, I would have no objection.

Senator Angara. Yes, Mr. President. I would propose that at the right time.

But in addition to that, Mr. President, does the Proponent accept the fact that we may have to grant this department not just only the power to formulate programs, but also to formulate policies? Because I do not see any statement here that states that this department is authorized to formulate and prepare policies on energy, unless the program that is going to be formulated is implicitly also a statement of policy.

Senator Tatad. Mr. President, I take the view that in a presidential as well as in a parliamentary government, there is a Cabinet that formulates policy for the Executive, and that the departments may recommend policy, but the final formulation

and approval will have to come from the Cabinet, and that on the basis of approved policy, programs are made.

Senator Angara. That is true, Mr. President. But as I understand it, under a presidential system, policy formulation and preparation begins with the department. The Cabinet may, in the end, sit as a collective body and approve this policy. But the responsibility of initiating policy by the department, I think, ought to be made clear. I believe that is the rule in a presidential system.

The only point, really, Mr. President, is, maybe we should not limit or confine the powers and functions of the department simply to formulating a master energy program.

Senator Tatad. Mr. President, I would have no objection to inserting this particular proposal within the context of what has been said.

Senator Angara. Thank you, Mr. President.

Senator Alvarez. The Gentleman said there is a proposed amendment.

The President. No, we will vote on this separately. Since this amendment was introduced as a package, the Chair considers it only fair that there should be interpellations on these proposed amendments. That is why, it is being done this way.

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

Senator Guingona. Thank you, Mr. President.

May I direct some questions to the distinguished Proponent, Mr. President?

Senator Tatad. Yes. Gladly, Mr. President.

Senator Guingona. The proposal calls for a formulation and implementation of an integrated and comprehensive National Energy Program within six months. May I ask the Proponent what he will do? How will the Secretary of Energy tackle the present emergency within the six months while he is preparing or formulating the integrated plan or program?

Senator Tatad. The provision in No. 1 of Section 4, Powers and Functions, does not prevent the Secretary from undertaking such measures and actions as are necessary to deal with the existing situation as he finds it in office. But I would assume that in the first six months, he would be very busy organizing his own office, while he is undertaking the planning and formulation of policies and programs.

Senator Guingona. So that the existing programs will be the one implemented during the first six months.

Senator Tatad. Yes. That would be the assumption. What the Gentleman is saying here is that, we do not expect him to be able to produce a program on the very day that the department is established and that he assumes office. All that he is expected to do is to simply put his imprimatur on the existing program and say: "This is now the program of the department."

Senator Guingona. Will the distinguished Proponent, therefore, agree to a prior number mandating the Secretary to cope with the energy calamity or crisis immediately as resources may allow?

Senator Tatad. Although, I think, that is understood, that would be a most desirable amendment if it was introduced.

Senator Guingona. And we would just like to, for clarity's sake, perhaps emphasize in the *Record* that in the existing laws on, for example, exploration, the existing laws on energy that cannot be altered except by amendment subsequently will continue, and that it is not the Secretary who will determine now what powers he has or what limitations he himself will have in dispensing with exploration rights from energy sources.

Senator Tatad. I would have no objection to incorporating that idea in the amendment.

Senator Guingona. Thank you, Mr. President.

Senator Maceda. Mr. President.

The President. The Senate President Pro Tempore is recognized.

STATEMENT OF SENATOR MACEDA
(Commending Senator Tatad for the Amendments)

Senator Maceda. Mr. President, let me preface my statement and parliamentary inquiry bordering on a point of order by sincerely commending my partymate, the Gentleman from Catanduanes, for doing what is obviously a lot of work that went into the preparation of this series of amendments that will affect about 80 percent of the bill. About 17 sections are affected which, as is indicated now by the substitution of Section 4 on the Sponsor's Committee version, it seems to me, Mr. President, that we are, in effect, considering the substantial nature of the amendments, a substitute bill under the procedure being adopted of proposing the amendments section by section.

This is the first time in the last five years that this has really happened on the Floor. I wonder whether we should discuss this

particular procedure. There is no easy answer. The easy answer which is not an answer is that this should have been inputted into the committee deliberations prior to the adoption by the committee of its final draft. But in substance, while I have no objection if the Body will allow it, we are, in effect, considering a substantially substitute bill under a procedure of introducing the substitute bill section by section *in toto*.

Senator Tatad. Mr. President, the proposed amendments indeed look extensive and awesome in length. But there are very few substantial changes being introduced.

As constructed, Section 4 — and I mentioned this earlier — contains all the ideas in the proposed amendment except for the central fact that where the original section talks of a comprehensive program in paragraph (a), a Philippine Energy Program in paragraph (b), other programs in paragraph (d), and research and development programs in paragraphs (f) and (g). I thought that it would be more economical, simpler and easier to understand if we simply had an integrated national energy program containing all the qualities sought to be introduced in the paragraphs mentioned.

There is one original idea being introduced in the "Powers," and this has to do with the undertaking and promotion of scientific research in energy generation, processing, utilization, conservation and related issues and, I believe, the department should be vested with these powers because they are very important ones.

As for the other proposed amendments, I believe that we will come to these at the proper time. These have to do with matters of style which the Sponsor can obviously reject when presented.

Senator Maceda. Mr. President, it is enough that I have raised the procedural issue. I leave it up to the leadership to decide the matter.

The President. What is the comment of the Chairman of the Committee on Rules?

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, to enable us to consult the Gentleman on the Floor, may I ask that we suspend the session for a few minutes.

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

It was 4:41 p.m.

RESUMPTION OF THE SESSION

At 6:17 p.m., the session was resumed.

The President. The session is resumed.

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

Senator Tatad. This being a very special day for the distinguished Sponsor of Senate Bill No. 695, it is my pleasure to concede many points I would otherwise not have conceded on an ordinary day.

Also, to remove the impression that there is here an attempt to use the period of individual amendments in order to present a substitute bill, I am withdrawing my proposed amendment by substitution, and we have agreed to amend the section line by line.

I would propose to amend....

Senator Alvarez. Before the Gentleman does, Mr. President, may I put into the *Record* my appreciation, and this is a gift that I will cherish to my dying day.

Senator Tatad. I would collect on that later, Mr. President.

The President. We are now on page 2, Section 4. Is there any amendment to paragraph (a)?

TATAD AMENDMENTS

Senator Tatad. I would like to propose, Mr. President, on line 13 up to line 14 of page 2 under Section 4, the deletion of the words "which is integrated with the country's economic development programs", and in lieu thereof, substitute the words **CONSISTENT WITH THE APPROVED NATIONAL ECONOMIC PLAN.**

The President. What does the Sponsor say?

Senator Alvarez. We accept, Mr. President.

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

Senator Tatad. On line 16, Mr. President, I propose the deletion of the word "Department" and in lieu thereof, substitute the word **GOVERNMENT.**

Senator Alvarez. It is accepted, Mr. President.

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

Senator Tatad. On line 17, Mr. President, I would propose the insertion of the word **EXISTING** between the words "the" and "Philippine".

Senator Maceda. I have an anterior amendment, Mr. President.

The President. Yes, what is the anterior amendment?

MACEDA AMENDMENT

Senator Maceda. On lines 12 and 13, I just want to insert some adjectives. Before the word "supply", insert the word EFFICIENT, and before the word "use", insert the word ECONOMICAL.

Senator Alvarez. It is accepted, Mr. President.

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

Senator Tatad is recognized.

TATAD AMENDMENTS

Senator Tatad. I am sorry, Mr. President. On line 17, may I propose the insertion of the word EXISTING between the words "the" and "Philippine".

The President. Is this acceptable to the Sponsor?

Senator Alvarez. It is accepted, Mr. President.

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

Senator Tatad. On line 22, Mr. President, I propose the deletion of the word "formulated" and in lieu thereof, the substitution of the word UPDATED.

Senator Alvarez. It is accepted, Mr. President.

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

Senator Tatad. On line 23, Mr. President, between the words "and" and "submitted", may I propose the deletion of the phrase "shall be". After the word "Congress", may I propose the insertion of the words FOR INFORMATION.

Senator Alvarez. It is accepted, Mr. President. FOR ITS INFORMATION.

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

Senator Tatad. And then, on line 24, Mr. President, may I propose the deletion of the word "annually" and in lieu thereof,

substitute the words NOT LATER THAN THE FIFTEENTH DAY OF AUGUST EVERY YEAR.

Senator Alvarez. Why the fifteenth day of August, Mr. President? Why is the fifteenth day the cutoff point, may we ask?

Senator Tatad. It is my view that there should be a deadline for the submission of the report every year. And that the report should land in the hands of Congress, at least, not one month after the opening of the session.

Senator Alvarez. During the budgetary hearings? Within the days for budgetary hearings?

Senator Tatad. Yes, Mr. President.

Senator Alvarez. It is accepted, Mr. President.

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

Senator Maceda. Mr. President.

The President. The President Pro Tempore is recognized.

MACEDA AMENDMENT

Senator Maceda. Mr. President, before we go to the next section, I just allowed the Gentleman to finish his amendments to Section (b). I would like to go back to line 21, Section (b). And the amendment is to delete the word "and" after the word "friendly", and after the word "indigenous", to insert the words AND LOW COST.

To read, therefore, "with preferential bias for environment friendly, indigenous AND LOW COST sources of energy."

Senator Alvarez. It is accepted, Mr. President.

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

Senator Tatad. Mr. President, on line 26, may I propose the deletion of the word "administer" and in lieu thereof, substitute the word SUPPORT.

The President. Is that acceptable?

Senator Alvarez. That is accepted, Mr. President.

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

Senator Tatad. On line 30, Mr. President, may I propose the deletion of the phrase "nuclear fuel resources" between the words "liquids" and "and."

The President. Deletion.

Senator Alvarez. Mr. President, we already had understanding on this particular provision. First, we had agreed that we were not going to confront a major policy question on nuclear fuel in order to leave this question open, so that this "fuel" here could refer to materials for research.

Second, at some critical point in the bill, on Section 23, on the Repealing Clause, we will indicate therein that nothing in this law repeals RA No. 6969, which is the governing legislation on toxic substances, including nuclear fuel.

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

Page 3.

Senator Mercado. Mr. President.

The President. Senator Mercado is recognized.

Senator Mercado. Parliamentary inquiry. Did we act already on the proposed amendment of Senator Tatad? Has this been withdrawn — the amendment of Senator Tatad to delete the phrase "nuclear fuel sources" on line 30?

Senator Alvarez. We were explaining to the Gentleman, Mr. President, that this particular portion had already been the subject matter to which we had addressed the solution.

If I remember right, the Gentleman from Quezon City had proposed an amendment/alteration, and then the solution was for us to keep this provision with the understanding that it does not settle the issue of the use of nuclear energy, because this could refer to research materials. But, however, articulating or specifying in the Repealing Clause that nothing in this Act repeals RA No. 6969.

Senator Mercado. Mr. President, as I recall, last night I withdrew my proposed amendment which originally was to amend Section 2, paragraph (b), enumerating the forms of energy products and resources so that it would not include nuclear resources and products.

That particular amendment of mine, Mr. President, was on Section 2. We are now on Section 4, and I had also the intention of moving for the deletion of the phrase "nuclear fuel resources"

on line 30, precisely because of the same arguments that I articulated last night that we have not made a policy decision on whether this country is going nuclear or not. We might as well be silent about it. But to mention it, to my mind, is to make a conscious decision that we are going to go nuclear. This needs another debate.

Aside from the Bataan Nuclear Power Plant discussions here every now and then, we have not made any decision on the matter. I believe that it would be best for us to just be silent on the matter and drop this particular provision.

Senator Alvarez. But the objection of the Gentleman, which is also mine, refers to the usage of nuclear fuel. But nuclear fuel resources is being used currently for research, so it does not open up the use by the Bataan Nuclear Plant or any other nuclear plant of nuclear fuel.

What we are saying here is, we are not by indirection already adopting a policy. Precisely, because of that agreement in reference to his proposed amendment on a previous section, in not tinkering, amending or repealing any portion of R.A. No. 6969, that his position is well-protected.

We realize that there is a need for a debate to confront the problem on the use of nuclear energy. When that appropriate time comes, many of us will stand to force the use of nuclear energy. I do not think that we are proposing here by indirection the tolerance of the use of nuclear energy for fuel.

Senator Mercado. Mr. President, the same argument applies to the point that I am raising. The record will show that in the interpellation of the Sponsor, I asked whether this department, the Department of Energy, will have control over the Philippine Nuclear Research Institute (PNRI) which is under the Department of Science and Technology, and the answer was, this was not so.

So the research aspect on matters related to nuclear energy is not going to be under the Department of Energy. It is going to be under the Department of Science and Technology. So there is no need for this phrase if the reason, as articulated by the Sponsor, is to include materials for research purposes.

Senator Maceda. Mr. President.

The President. The President Pro Tempore is recognized.

Senator Maceda. May I interject, Mr. President, maybe it would help.

I think really we have to be a little more specific with regard to objections on the matter of nuclear fuel resources.

I can envision, for example, a situation where we confirm that there is uranium in Camarines Norte, and, therefore, it would be good income for the government to develop it for sale to Japan or any other countries that are using nuclear plants.

I do not think that that is meant to be totally suppressed if we do find nuclear fuel resources here which could be explored and exploited for sale outside the country.

Senator Mercado. Mr. President, that would be something that could be subjected to a full debate and with the use of scientific data on both sides.

But to make that decision in this law, I believe is going beyond what should be placed under the Department of Energy. We are making a very difficult and momentous decision that cannot be done tangentially through this measure. That is the reason I am saying that the best course of action is for us to delete these words "nuclear fuel resources."

The President. Precisely, that is the Tatad amendment, is it not?

Senator Tatad. Yes, Mr. President, that is the Tatad amendment. And I was under the impression that the distinguished Sponsor had agreed to this earlier and reiterated his agreement just now. But I am sorry that there seems to have been a misimpression.

I should like to insist on the amendment.

SUSPENSION OF THE SESSION

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

It was 6:33 p.m.

RESUMPTION OF THE SESSION

At 6:43 p.m., the session was resumed.

The President. The session is resumed.

Senator Tatad. Mr. President, I would like to withdraw my proposed amendment and, in lieu thereof, I would like to propose another amendment on line 29.

On page 2, line 29 up to line 2 of page 3, I propose the deletion of all the words therein after the word "resources" and, in lieu thereof, substitute the words OF ALL FORMS WHETHER CONVENTIONAL OR NON-CONVENTIONAL so that the entire paragraph will now read, as amended, "establish and support programs for the exploration, transportation, marketing,

distribution, utilization, conservation, stockpiling, and storage of energy resources OF ALL FORMS WHETHER CONVENTIONAL OR NON-CONVENTIONAL".

The President. What does the Author say?

Senator Alvarez. It is accepted, Mr. President.

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

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 695

Senator Romulo. Mr. President, due to the lateness of the hour, I ask that we suspend consideration of Senate Bill No. 695 to be continued tomorrow.

The President. Before the Chair puts this to a vote, the Chair requests all Members of this Body who may have some proposed amendments to please take them up with the Sponsor of this bill to facilitate action thereon, because at the rate we are going on this bill, we cannot finish this even in a period of one month.

There is here a motion to suspend consideration of this bill. Is there any objection to the motion? *[Silence]* There being none, the motion is approved.

Senator Romulo. Mr. President, may I also inform the Body that the House has passed on Third Reading the House version of the Department of Energy bill.

CONFERENCE COMMITTEE ON SENATE BILL NO. 704 (Legislative-Executive Development Council)

Mr. President, before I move for a suspension of the session, may I ask the consent of this Chamber for the nomination of the Members of the Senate to the Conference Committee on Senate Bill No. 704, the Legislative-Executive Development Council, to be composed of Senators Gloria Macapagal-Arroyo, Ernesto Maceda, Alberto Romulo, John Osmeña, Blas Ople and Teofisto Guingona, Jr.

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

MOTION OF SENATOR ROMULO (Designation of Senate Panel to the Joint Congressional Oversight Committee)

Senator Romulo. Mr. President, under Section 13 of Republic Act No. 7637, the Mt. Pinatubo Assistance Resettlement Development Fund, it states: There is hereby created the Joint

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SENATE
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SENATE

Record of the Senate

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OCTOBER 19 TO DECEMBER 18, 1992

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RECORD OF THE SENATE

MONDAY, OCTOBER 19, 1992

OPENING OF THE SESSION

At 3:44 p.m., the Honorable Neptali A. Gonzales, President of the Senate, called the session to order.

The President: Binubuksan ang ikadalawampu't-siyam na sesyon ng Senado.

Inaanyayahan ang lahat na ating awitin ang Pambansang Awit sa pangunguna ng MWSS Choir na magbibigay rin sa atin, pagkatapos noon, ng isang awiting pinamagatang "Pag-yamanin Ang Kapaligiran." Pagkatapos ay mananalangin tayo sa pangunguna ni Senadora Anna Dominique M.L. Coseteng.

Everybody rose for the singing of the National Anthem.

After the singing, everybody remained standing for the opening prayer.

PRAYER

Senator Coseteng:

Heavenly Father, the Giver of all life, we call on Your blessing upon us so that we may accomplish what we have set out to do.

Help us to give full meaning to all the expressions of concern for our people and our environment.

You have so richly endowed our land with forests and rivers and mountains, with its bountiful flora and fauna.

All these You have given us as Your chosen people in this land, for us to use, and not abuse.

Grant us the wisdom to understand that our very own human survival depends on the continuing existence of these natural resources.

Enlighten each one of us and help us remember our pristine purpose when we first sought the position we now occupy.

Let not our noble objectives be clouded by considerations that will not benefit the greater number of our people who are, in fact, in most need of our concern.

We thank You, Lord, for the opportunity You have given us to serve our country and our people.

May the service we render be truly acceptable before Your eyes.

Amen.

SUSPENSION OF THE SESSION

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

It was 3:51 p.m.

RESUMPTION OF THE SESSION

At 3:53 p.m., the session was resumed.

The President: The session is resumed.

Babasahin ng Kalihim ng Senado ang talaan ng mga Senador.

ROLL CALL

The Secretary:

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Rodolfo G. Biazon	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Jose D. Lina, Jr.	Present
Senator Gloria Macapagal-Arroyo	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator John H. Osmeña	Present*
Senator Santanina T. Rasul	Present*
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Leticia R. Shahani	Present*
Senator Vicente C. Sotto III	Present
Senator Wigberto E. Tañada	Present
Senator Francisco S. Tatad	Present
Senator Arturo M. Tolentino	Present*
Senator Freddie N. Webb	Absent
The President	Present

* Arrived after the roll call

while the suggestion of "let sleeping dogs lie" may be a very good one, I do not think the Malaysians will let the sleeping dogs lie. Thank you very much.

Senator Tatad: Thank you very much, Senator from Manila. Thank you very much, Mr. President.

The President: Thank you so much, Senator Tatad.

The Majority Leader is recognized.

MOTION OF SENATOR ROMULO
[Referral of Senator Tatad's Speech to the
Foreign Relations Committee]

Senator Romulo: Mr. President, I move that we refer the privilege speech of Senator Tatad to the Committee on Foreign Relations.

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

BILL ON SECOND READING
Senate Bill No. 695--Creating the Department of Energy
[Continuation]

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 695, the Department of Energy Bill, as reported out under Committee Report No. 5.

The President: Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo: Mr. President, we are still in the period of individual amendments. I ask that the Sponsor, Senator Alvarez, be recognized.

The President: Senator Alvarez, the Sponsor, is hereby recognized.

Senator Romulo: Mr. President, before we suspended our session last Wednesday, it was agreed that a clean copy be made of the amendments so far. And, if I recall right, that is up to Section 4(d). The amendments, which are now in clean copy, are in the black folder of each Senator.

So we were on Section 4(d) when we suspended consideration of this bill.

SUSPENSION OF THE SESSION

Senator Angara: Mr. President, may I ask for a one-

minute suspension because we have no clean copy of the bill.

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

It was 6:38 p.m.

RESUMPTION OF THE SESSION

At 6:43 p.m., the session was resumed.

The President: The session is resumed.

Senator Angara: Mr. President.

The President: Senator Angara is recognized.

Senator Angara: Thank you, Mr. President.

I understand we are now on paragraph (d). May I propose the following amendments: beginning line 4, page 3, delete the semicolon up to the word "activities" on line 5. The provision will now read, so it will just flow: PLAN, IMPLEMENT, COORDINATE AND SUPERVISE ALL GOVERNMENT ACTIVITIES RELATIVE TO THE EXPLORATION, DEVELOPMENT, UTILIZATION AND CONSERVATION OF ALL FORMS OF ENERGY RESOURCES. We delete the words "extraction, production" on line 6, the whole of line 7, the phrase "stockpiling and storage" on line 9, and beginning on line 10 with the word "such", up to line 17, "activities". Thus, paragraph (d) now will read: "Plan, implement, coordinate and supervise all government activities relative to the exploration, development, extraction, utilization and conservation of all forms of energy resources;"

The President: What does the Sponsor say?

Senator Alvarez: The Gentleman is trying to strike down regulations for the downstream industries and this will not jibe with the constitutional basis of this particular provision, I think, Mr. President.

Senator Angara: If I may explain, Mr. President.

If this paragraph (d) remains as it is, then it will, I am afraid, perpetuate the regime of regulation that we have now in the energy sector. It is not true that it will strike down the regulatory function of the Department with respect to the other aspects of energy like rate setting for electricity, and even those areas with respect to the exploitation of natural resources which the Gentleman mentioned which is entirely separate from what we are discussing here.

The reason why we are limiting the power of this Department to planning, coordinating, and supervising all governmental activities is that the Department has, in any case, supervision and control over all its activities. But I do not think that we should authorize the Department to regulate all private sector activities as stated here. Because, then, we perpetuate the regime of regulation which we said, in the Statement of Policy, that we are not doing. In fact, we are saying that we are going to encourage private initiative with minimum government regulation.

There are those who think--and I am also one of them--that there are certain aspects of energy that we should continue to regulate, and one of them is electricity rates, Mr. President. We have to provide for power, for authority to continue regulating electricity rates. But that is not the place to do that. It can be somewhere else.

So unless this paragraph is rewritten, Mr. President, the whole scheme, to me, is a scheme for regulation rather than deregulation. And this particular paragraph is at the heart of the power of the new Department.

The President: I see the Senate President Pro Tempore rising. What is his pleasure?

Senator Maceda: With the permission of the Sponsor...

The President: With the consent of the two Gentlemen on the Floor.

Senator Maceda: Mr. President, I guess this is one of those paragraphs where we can read it the way we want to see it. From my viewpoint, Mr. President, this paragraph already accommodates the view of the Gentleman from Aurora, especially after as he has referred to, we already put in the Declaration of Policy, the words "with appropriate minimum government regulation". And this paragraph is consistent by the use of the words at the end of line 4, beginning of line 5, "and whenever necessary regulate". So that, there is already a concession here that the Department may not even consider it necessary to regulate at an appropriate time for an appropriate activity. However, the enumeration of activities is such that, unless we go again into a specification process, I do not see anything wrong with this enumeration of activities, including marketing, distribution, stockpiling and storage.

While the Gentleman may be concerned with certain energy products, I guess when it comes to distribution, stockpiling and storage of, let us say, certain kinds of energy or power, they are different from other kinds and we may need again minimum regulation, let us say, from the viewpoint of safety.

The orientation of the Gentleman, understandably, seems to concentrate on the matter of allowing private business from the viewpoint of its profitability and the viewpoint of their efficiency in terms of reducing cost with a certain amount of freedom. I guess the Department Secretary would be all too willing to do that whenever necessary or at the appropriate time to a minimum.

But, certainly, I do not believe the Gentleman himself is suggesting that when it comes, let us say, to safety factors from the viewpoint of environmental factors--the handling of wastes, the pollution of the rivers and the seas by refineries that are adjacent to the rivers and the seas, like the Caltex Refinery which is near Bauan Bay, or Petron which is in Limay near Manila Bay--certainly, those are subject to some form of minimum regulation. By entirely removing any use of the word "regulate" or "regulation", besides assuring that there would be no regulation on the matter of business costs and profitability, we are, almost by the same stroke, removing all kinds of government control, supervision and regulation which, I think, is not even the intention of the Gentleman from Aurora.

So I believe that, as it is, as long as we retain the words "whenever necessary" related to the declaration of appropriate minimum regulation in the policy, there has been a step forward in the direction that the Gentleman wants to go.

Senator Angara: If I may respond, Mr. President.

I wish I can agree with my distinguished Colleague, but it is not sufficient to say that deregulation will be at the discretion and pleasure of the Department which is implied by the phrase "whenever necessary." Of course, I do not disagree that safety rules and pollution regulations must be followed, but that is a separate matter of regulation. That does not involve authority and power which we are discussing here. Neither does it mean that I am against any form of regulation.

In fact, Mr. President, as I have said, the Department must continue its authority over petroleum product pricing. But there are many aspects of the energy industry that can be deregulated immediately.

Under this formulation, the situation, as it is now, is in effect frozen, and no Secretary will have the motivation to deregulate under this formulation. We are not talking here, as I mentioned earlier, of safety or pollution or environmental requirement because that is covered by a separate law. We are talking here of economic policy-making.

Mr. President, do we want this Department to be empow-

ered with extensive regulatory powers to the extent that the Secretary can probably impose prohibitive license fees on energy devices and equipment? Is that truly the intentment of this law?

Our point is that the power of the Secretary must be consistent with the regime of deregulation that this government--which many of us believe--should be directing in energy development. We are not talking of profitability, but of market efficiency. Even now the government energy sector is moving faster than us.

The President has already announced the privatization of NAPOCOR only last Friday. The PNOC has bidden out its storage and dockyard in Batangas, and the PNOC Board has declared that it is now going to submit to the President the privatization plans for Petron. In other words, all the economic policy-makers of this administration are recommending a regime of deregulation and privatization.

Yet we are trying to back that trend and trying to freeze the situation as it is now. That is my objection to this formulation.

Senator Maceda: Mr. President, with the permission of the Sponsor, just one point.

The President: The President Pro Tempore is recognized.

Senator Maceda: Mr. President, if it is true--as eventually it will be true--that, let us say, not only Petron but the PNOC will be privatized, we are precisely giving up one of the government instruments for keeping the other oil companies under some form of restraint, in which case the more it becomes necessary to retain some form of regulatory control in the Department of Energy being created. Meaning to say, if we can be assured that the PNOC will not be privatized and, therefore, will act as it should--but it did not in the past because what it did was to join the gang, so to speak, instead of fighting them--and will do its assigned job of being the check on not only the marketing but all the other policies of the other private oil companies, then there could be a reason to reduce regulation.

But I submit, Mr. President, that in a case where we are going to privatize PNOC, the more we must retain in the Department of Energy or in the Government some form of regulatory power over this type of energy activity.

Senator Angara: Just one point, Mr. President.

The President: Senator Angara is recognized.

Senator Angara: Mr. President, this law is, in effect, a statement of economic policy and it will be the economic policy as envisioned by Congress. If we are lagging behind, even the Executive, what kind of economic legislation is that?

Now, the matter of PNOC exerting an influence in the petroleum market is also consistent with privatization because the government need not own Petron. It can own a veto power in Petron, say, retaining 34 percent of the equity of Petron, and still exert market influence in the price of petroleum. So that is really not the issue. The issue here is what kind of regime does this law anticipate and expect to create in the future?

My point is, by this formulation, it is trying to perpetuate a highly and overly regulated regime in the energy sector. We should not perpetuate that. The rule should favor a regime of deregulation. If there are exceptions, then the exceptions should be regulation. And the law must specify what aspects or areas of the energy sector should be subject to regulation rather than saying that, as a general rule, every aspect of the energy sector is subject to regulation.

That is all I am saying, Mr. President.

The President: The Sponsor is recognized.

Senator Alvarez: Mr. President, may I reassure the Proponent of the amendment that in fact this law, especially if considered in its entirety, ushers in a regime of deregulation.

We have not only articulated this very distinctly and in concrete terms on the Statement of Policy over which the Gentleman had actively participated and made the substantive alterations and amendments. We have also assured this in this specific provision of the law now being contested by the Gentleman.

When we say that "provided the department shall endeavor to provide for an environment conducive to free and active private sector participation in all energy activities," the thrust is really towards more and more private initiative and participation, more and more yielding to the forces of the market.

And later, Mr. President, if we should go further as we move on to the other provisions of this legislation, we will note that there is a mandate here which would be altered in one way or the other to suit certain thrusts or shift in emphasis. But the mandate says here, "study and recommend to Con-

gress" or perhaps to the President, "within a period of five (5) years," it could be four (4) years depending on how we will handle this provision, "proposals for the deregulation of appropriate activities of the energy industry."

Here, there is already a dynamic movement towards deregulation, and it is mandated under Section 7, subsection "d)".

Furthermore, Mr. President, under Section 13, page 11, we also mandate the creation of a Council of Energy Advisers from the private sector whose recommendations will be taken into account in managing the energy industry.

So the total spirit of this legislation is permeated with an appreciation of the forces of a free market.

However, Mr. President, without impairing the basic authority of a newly organized Department of Energy, we have provided for subsection "d)". And subsection "d)" is supported squarely by a constitutional provision which says under Section 2, Article XII. And may I quote, Mr. President, the specific provision:

... The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State.

So it speaks of exploration and utilization, Mr. President, all the gamut of activities, but we are not left static under this mandate. We are putting the authority under the newly created Department which we are instructing to relinquish, as conditions will warrant.

And that is the reason why we are opposing the proposed amendment of the Gentleman.

Senator Angara: Mr. President, just a quick response.

Section 2, Article XII on natural resources is of an entirely different subject matter, Mr. President. That is not the subject matter of this bill. We are talking of power and authority of the Department of Energy.

The Gentleman mentioned some of these isolated provisions about encouragement of the private sector, but that is precisely our problem, since those provisions about private sector initiative are more the exception. The rule is that this Secretary or Department will regulate all activities. I could not envision a more encompassing regulatory power than saying that the Department shall regulate private sector activities relative to a whole range of activities.

What we are proposing to the Author and we keep proposing this time and time again, including the Minority Leader, is that we state the regular power of a regular department there taking account of the statement of the principle that we are moving towards private initiative with minimum government regulation. And if they sincerely believe that we are now under a power crisis, then we provide for a section or a chapter in this bill that will declare such an energy crisis and provide in the interim what kind of power they want to grant to the Secretary. Hence, we implement a program of privatization and deregulation but at the same time we recognize the energy crisis, then we say in the interim that the Secretary, notwithstanding everything that has been said, can wield regulatory and almost plenary power over energy activities in the country for a period of two, three or four years.

That is our suggestion, Mr. President. Just to break this logjam on economic policy-making and our deepening conception of what a Department of Energy must be.

Senator Maceda: Just one brief rebuttal, Mr. President.

The President: Senator Maceda is recognized.

Senator Maceda: With the permission of the Sponsor, Mr. President. If we accept at face value what the Gentleman from Aurora is trying to say, we are not here creating a Department of Energy to solve our brownout and our energy crisis. There has been no showing that what the Gentleman is trying to propose will immediately solve the problem within the next two or three years. What the Gentleman is proposing is creating a department for deregulation. The reason why we have been giving so much time to this, precisely from the very beginning is to create a new department, to coordinate everything, to supervise everything, whether government or private, with the end in view of solving the present crisis. But it seems to me that the orientation that he is proposing is certainly going against that grain.

Thank you, Mr. President.

The President: The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, I think we almost have a meeting of the minds between the Speakers, so may I ask for a one-minute suspension of the session.

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

It was 7:08 p.m.

RESUMPTION OF THE SESSION

At 7:16 p.m., the session was resumed.

The President: The session is resumed.

The Majority Leader is recognized.

**SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 695**

Senator Romulo: Mr. President, I move that we suspend consideration of Senate Bill No. 695, on the Department of

Energy, until tomorrow.

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

ADJOURNMENT OF THE SESSION

Senator Romulo: There being no other matter to be taken in this evening's session, I move that we adjourn the session until three o'clock tomorrow afternoon.

The President: Is there any objection to the motion to adjourn? [Silence] There being none, the session is adjourned until three o'clock tomorrow afternoon.

It was 7:17 p.m.

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SENATE

Record of the Senate

FIRST REGULAR SESSION
OCTOBER 19 TO DECEMBER 18, 1992

VOLUME II, NOS. 29-44

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RECORD OF THE SENATE

MONDAY, OCTOBER 19, 1992

OPENING OF THE SESSION

At 3:44 p.m., the Honorable Neptali A. Gonzales, President of the Senate, called the session to order.

The President: Binubuksan ang ikadalawampu't-siyam na sesyon ng Senado.

Inaanyayahan ang lahat na ating awitin ang Pambansang Awit sa pangunguna ng MWSS Choir na magbibigay rin sa atin, pagkatapos noon, ng isang awiting pinamagatang "Pag-yamanin Ang Kapaligiran." Pagkatapos ay mananalangin tayo sa pangunguna ni Senadora Anna Dominique M.L. Coseteng.

Everybody rose for the singing of the National Anthem.

After the singing, everybody remained standing for the opening prayer.

PRAYER

Senator Coseteng:

Heavenly Father, the Giver of all life, we call on Your blessing upon us so that we may accomplish what we have set out to do.

Help us to give full meaning to all the expressions of concern for our people and our environment.

You have so richly endowed our land with forests and rivers and mountains, with its bountiful flora and fauna.

All these You have given us as Your chosen people in this land, for us to use, and not abuse.

Grant us the wisdom to understand that our very own human survival depends on the continuing existence of these natural resources.

Enlighten each one of us and help us remember our pristine purpose when we first sought the position we now occupy.

Let not our noble objectives be clouded by considerations that will not benefit the greater number of our people who are, in fact, in most need of our concern.

We thank You, Lord, for the opportunity You have given us to serve our country and our people.

May the service we render be truly acceptable before Your eyes.

Amen.

SUSPENSION OF THE SESSION

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

It was 3:51 p.m.

RESUMPTION OF THE SESSION

At 3:53 p.m., the session was resumed.

The President: The session is resumed.

Babasahin ng Kalihim ng Senado ang talaan ng mga Senador.

ROLL CALL

The Secretary:

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Rodolfo G. Biazon	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Jose D. Lina, Jr.	Present
Senator Gloria Macapagal-Arroyo	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator John H. Osmeña	Present*
Senator Santanina T. Rasul	Present*
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Leticia R. Shahani	Present*
Senator Vicente C. Sotto III	Present
Senator Wigberto E. Tañada	Present
Senator Francisco S. Tatad	Present
Senator Arturo M. Tolentino	Present*
Senator Freddie N. Webb	Absent
The President	Present

* Arrived after the roll call

the last Congress, the telephone in the fire station we have there has been busted for two consecutive months now, and the only way firemen would know if there is fire is if they see smoke. That is the only time they will respond. People will have to take a cab or a jeepney just to go to the fire station and report to them that there is fire in a certain area.

Mr. President, the reason I am telling this to our President Pro Tempore is, the best communication so far is the telephone. But we feel and it has been shown that PLDT has somehow fallen short of our expectations.

My point is: Should we not have an alternative? The Gentleman has mentioned the radio but, maybe, the possibility of a total communication, where at least all these fire departments or fire stations should have five telephones for their use, will even be better.

Senator Maceda: Mr. President, that, certainly, is an alternative system. Now I remember the technical name. It is the system of call boxes. They should be revived and fully made efficient. These are, I think, a combination of police and fire call boxes that should be put up all over a city or, let us say, the Municipality of Parañaque. The local government should put up in major corners and in major communities what we call call boxes where people can run to and lift the telephone to call directly the fire station or the police station. Unfortunately, our crime situation or our citizens' morality has so deteriorated that--I know, I have been told--the problem is, *pati itong mga call boxes ay ninanakaw palagi*.

I think there was a TV program on the call boxes on superhighways which was reported to be also out of order, so that even if a motorist gets into trouble in the North Diversion Road or in the South Superhighway, *wala ring mangyayari dahil hindi na raw gumagana ang mga call boxes doon*.

Senator Webb: My last two questions, Mr. President, are about these fire trucks which the Gentleman has mentioned.

Right now, I think it is only in Makati where the fire truck has this long ladder, which, if a certain building is gutted by fire, only goes up to the 20th floor. We have buildings that have 30 to 34 floors. What happens now if there is a fire on the 34th floor? Shall we wait until it gets down to the 20th floor and stop it there?

Senator Maceda: Mr. President, as a member of the very famous entertainment industry, I guess the Gentleman recalls the movie "The Towering Inferno" which is precisely part of

the problem he raised. Yes, we do not have enough fire trucks with sufficient ladder capacity to reach the high buildings. That is why, all these new high buildings are supposed to have their own sprinkler systems built into the buildings. However, that would be limited by the question of lack of water running through the area or through the buildings.

Senator Webb: I was just going to that. My next question would have been about water, but it has already been answered by the Gentleman.

My last one is about the firemen--but not to make an issue that certain people, particularly firemen, get salaries below their supposed-to-be experience in firefighting. But again, let not low salaries be the reason for one to commit graft and corruption but, instead, let us make it a point that if one is not contented with his job, then he should get out. But it should not be used as a yardstick for one to work in a particular department, and simply because of his low salary, he makes it a point that he gets himself involved in graft and corruption.

Senator Maceda: That is correct, Mr. President. There has to be a better training of firemen so that the proper attitudes are inculcated in them.

Senator Webb: *Salamat po, G. Pangulo.*

MOTION OF SENATOR MACEDA
(Referral of His Speech to the
Ways and Means and Local Government Committees)

The President: There is a motion of the Senate President Pro Tempore to refer his speech to the Committee on Ways and Means.

Senator Romulo: And to the Committee on Local Government.

The President: And to the Committee on Local Government. Is there any objection to this motion? [*Silence*] There being none, the motion is hereby approved.

The Majority Leader is recognized.

Senator Romulo: Mr. President, may I just state for the record that the Senate President is in receipt of a communication from President Fidel V. Ramos dated October 20, 1992, certifying to the immediate enactment of Senate Bill No. 695, creating the Department of Energy, which reads as follows:

20 October 1992 immediately take action on this.

Honorable Neptali A. Gonzales
President of the Senate
Senate of the Philippines
Manila

Sir:

Pursuant to Article VI, Section 26(2), of the Constitution, I have the honor to certify to the necessity of the immediate enactment of Senate Bill No. 695, entitled

“AN ACT CREATING THE DEPARTMENT OF ENERGY, DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES,”

to meet a public emergency.

Thank you.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

May I also, at this point, ask that we suspend the session, Mr. President, so that we can have a caucus, precisely to thresh out the remaining provisions of Senate Bill No. 695 which has been under discussion. I, therefore, move that we suspend the session.

The President: Senator Herrera is recognized.

Senator Herrera: This is not an objection, Mr. President. In the course of the speech of the Senate President Pro Tempore, he suggested that the Ways and Means Committee look into the subject matter thereof. I am just wondering whether it was referred to the said committee so that we can

The President: Yes, the motion of referral to the Gentleman’s Committee on Ways and Means and to the Local Government Committee has already been approved.

Senator Herrera: Thank you, Mr. President.

SUSPENSION OF THE SESSION

Senator Romulo: I have a motion, Mr. President, to go into a caucus.

The President: Is there any objection to the motion to suspend the session? [*Silence*] There being none, the session is suspended in order to allow the Senators to sit down in a caucus at Room 410 to consider the bill creating the Department of Energy.

It was 4:16 p.m.

RESUMPTION OF THE SESSION

At 6:50 p.m., the session was resumed.

The President: The session is resumed.

The Majority Leader is recognized.

ADJOURNMENT OF THE SESSION

Senator Romulo: Mr. President, there being no other matters to be taken up this evening, I move that we adjourn the session until three o’clock tomorrow afternoon.

The President: There is a motion to adjourn. Is there any objection to this motion? [*Silence*] There being none, the session is adjourned until three o’clock tomorrow afternoon.

It was 6:50 p.m.



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All these You have given us as Your chosen people in this land, for us to use, and not abuse.

Grant us the wisdom to understand that our very own human survival depends on the continuing existence of these natural resources.

Enlighten each one of us and help us remember our pristine purpose when we first sought the position we now occupy.

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We thank You, Lord, for the opportunity You have given us to serve our country and our people.

May the service we render be truly acceptable before Your eyes.

Amen.

SUSPENSION OF THE SESSION

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

It was 3:51 p.m.

RESUMPTION OF THE SESSION

At 3:53 p.m., the session was resumed.

The President: The session is resumed.

Babasahin ng Kalihim ng Senado ang talaan ng mga Senador.

ROLL CALL

The Secretary:

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Rodolfo G. Biazon	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Jose D. Lina, Jr.	Present
Senator Gloria Macapagal-Arroyo	Present
Senator Ernesto M. Maceda	Present
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Senator Vicente C. Sotto III	Present
Senator Wigberto E. Tañada	Present
Senator Francisco S. Tatad	Present
Senator Arturo M. Tolentino	Present*
Senator Freddie N. Webb	Absent
The President	Present

* Arrived after the roll call

BILL ON SECOND READING

Senate Bill No. 695--Creating the Department of Energy
(Continuation)

Senator Romulo: I move that we resume consideration of Senate Bill No. 695 as reported out under Committee Report No. 5.

The President: Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo: Mr. President, we are still in the period of individual amendments. I ask that the distinguished sponsor, the Chairman of the Committee on Energy, Senator Heherson Alvarez be recognized.

The President: Senator Alvarez is recognized.

Senator Alvarez: Mr. President, the Gentleman from Quezon has finally come up with an enlightened and acceptable compromise.

SUSPENSION OF THE SESSION

Senator Angara: Mr. President, can we just have a break of about five minutes, because there is a compromised provision that the Minority Leader as well as the Sponsor have handed to us. Maybe, we can have a break.

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

It was 5:55 p.m.

RESUMPTION OF THE SESSION

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

The President: The session of the Senate is hereby resumed.

Senator Angara: Mr. President, may I yield the Floor to the Minority Leader who will be presenting a compromise provision in lieu of Section 4(d).

The President: The Minority Leader is recognized.

GUINGONA AMENDMENT

Senator Guingona: Mr. President, this compromise formula was arrived at in consultation and agreement with the Sponsor, Senator Alvarez, the proponents of the proposed

amendment, Senator Angara, Senator Osmeña and Senator Aquino. The compromise amendment reads as follows:

THE SECRETARY SHALL EXERCISE SUPERVISION AND CONTROL OVER ENERGY PROJECTS IN ORDER TO ATTAIN THE GOALS EMBODIED IN SECTION 1 OF THIS ARTICLE.

THIS INCLUDES ALL REGULATORY POWERS ALLOWED BY LAW, DEEMED NECESSARY TO EFFECTUATE SAID PURPOSE.

AT THE END OF FOUR YEARS FROM THE EFFECTIVITY OF THIS ACT, THE SECRETARY SHALL INSTITUTE A PROGRAM AND TIMETABLE OF DEREGULATION OF APPROPRIATE ENERGY PROJECTS AND ACTIVITIES OF THE ENERGY INDUSTRY.

The President: What does the sponsor say?

Senator Alvarez: We accept this amendment, Mr. President.

The President: Is there any objection to the proposed amendment?

Senator Osmeña: Mr. President.

The President: Senator Osmeña is recognized.

MOTION OF SENATOR OSMEÑA
(Insertion of Osmeña and Angara
Proposals into the Record)

Senator Osmeña: Mr. President, not to object but simply so that the record will show because this is an amendment that is a compromise to an Angara proposal and an Osmeña proposal, and any one, who in the future will look at the record and the journal of this bill, will not see such because we never put on the record what was the Angara proposal or what was the Osmeña proposal.

So, may I request, Mr. President, with the permission of the Chamber, that the body of the Angara proposal and the Osmeña proposal be inserted into the *Record* so that there is a complete record of how we arrived at this compromise.

The President: Without in any way changing already the proposed amendment, the Chair allows these matters to be entered in the *Record* for guidance in the proper interpretation of this provision.

Senator Osmeña: Thank you, Mr. President.

The following is the full text of the Osmeña proposal:

“(d) Plan, implement, coordinate and supervise all government activities; and encourage, guide and, whenever necessary, regulate private sector activities relative to the exploration, development, extraction, production, importation, exportation, processing, distribution and utilization of all forms of energy products resources, subject to limitations under Section _____ of this Act.”

The following is the full text of the Angara proposal:

“(d) supervise and coordinate the energy projects of and energy agencies of the government to the end that the national energy policy and program shall be implemented in an effective, economical and expeditious manner;”

Senator Maceda: Mr. President, may I.

The President: The Senate President Pro Tempore is recognized.

Senator Maceda: I just want to request some explanation from the principal Sponsor of the amendment on two words.

I am referring, Mr. President, to the word “allowed” in the second paragraph. May I know the intention of using this word, or does it mean another word, like “prescribed” or “established”? Because “allowed” looks like it is a very weak word in the hierarchy of words. I want to know if the use of this word has a technical meaning, Mr. President.

Senator Guingona: Mr. President, there is no technical meaning attached to it. It was simply phrased in order to include not only the existing laws embodying the regulations but also possible future legislation that may seek to be pertinent to said regulations.

Senator Maceda: The second word, Mr. President, is the word “institute” in the third paragraph “The Secretary shall institute....” May we know what is the intended meaning of this particular word?

Senator Guingona: Within four years, Mr. President.

Senator Maceda: At the end of...

Senator Guingona: No, by way of explanation.

Senator Maceda: Yes.

Senator Guingona: Within four years, the Secretary will make the necessary recommendations, and he, himself, may administratively institute certain matters for deregulation, although administratively. At any rate, the four-year period is the period within which deregulation, as a concept, will be implemented.

Senator Maceda: It is, of course, understood that when the Minority Leader says “the Secretary shall institute”, it is with the corresponding previous approval of the President, who is the superior of the Secretary.

Senator Guingona: Yes, Mr. President, and also of legislation whenever needed.

Senator Maceda: Could we put that concept in the paragraph that it is with the approval of the President and subject to corresponding legislation?

Senator Guingona: Yes, Mr. President.

Senator Angara: Mr. President, if the deregulation program will still be subject to congressional approval, then we are not agreeable to the compromise agreement, because it changes the whole concept. This is already the congressional authorization for deregulation. With regard to Presidential approval, yes, because, after all, the Department Secretary is the alter ego of the President, but to subject such a program of deregulation to congressional approval is something else. It makes the whole concept entirely different.

The President: Yes. What does the Minority Leader say?

Senator Guingona: Maybe, limiting it to the approval of the President.

Senator Angara: Then we have no problem with that, Mr. President.

The President: How about Senator Maceda?

Senator Maceda: Will the Sponsor state the actual positioning of the approval of the President in this paragraph?

Senator Guingona: “Will institute upon approval of the President.”

SUSPENSION OF THE SESSION

Senator Maceda: Mr. President, may we have a one-minute recess?

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

It was 6:22 p.m.

RESUMPTION OF THE SESSION

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

The President: The session is resumed.

Senator Roco: Mr. President, may the Proponent yield to some questions?

Senator Guingona: Certainly, Mr. President.

Senator Roco: I am trying to understand what we are saying in the last paragraph, Mr. President. Because it would seem that all we are saying is that for four years, nothing will happen except, maybe, the Department of Energy will be organizing itself, trying to identify the problems in terms of the energy projects, and sometime after four years, there will be an institution of deregulation.

Senator Guingona: No, Mr. President. On the contrary, we would like things to happen very much to such an extent that the energy ills will be resolved. And one of the basic ingredients of resolving this is to empower the Secretary to exercise supervision and control under the existing rules and regulations embodied in the Constitution and laws. However, there are certain activities that, in the judgment of the Secretary, subject perhaps to the approval of the President, can be deregulated under the supervision and control of the Secretary.

For example, private management can take over NAPOCOR for a limited period. Perhaps, in the matter of disposing of certain portion of the capital, this may be allowed to private persons. He can do things administratively to encourage private participation in the generation of power. But since a Secretary cannot effectively attain those goals without the necessary supervision and control, then we have provided that within four years he may recommend the system of deregulation.

Senator Roco: What is clear from this proposed amendment, Mr. President, is that there will be supervision and control of power on the part of the Secretary over all energy

projects. That is very clear, and that is all that it really achieves--supervision and control over energy projects, as defined in one of the Sections. And that is supposed to solve our energy problems.

Senator Guingona: The exercise of the supervision and control would be left to the dynamism of the Secretary of the Department of Energy.

Senator Roco: What then is the policy position, for instance, of the Senate as regards pricing? We leave it to the Secretary.

Senator Guingona: Pricing would be left to the regulatory mechanism under existing laws.

Senator Roco: Yes. But as far as this bill that we are talking about is concerned, if we talk about pricing, we rescind from the issue and we leave it to the supervision and control and the dynamism of the Secretary.

Senator Guingona: No, Mr. President. Under the provision in the ERB, we will place pricing under the control of the ERB, not only for NAPOCOR, but also for the electric cooperatives.

Senator Roco: So ERB now will have control over pricing for electricity.

Senator Guingona: For electricity.

Senator Roco: And they will also have control over pricing, presumably, over oil.

Senator Guingona: Over gasoline, Mr. President.

Senator Roco: And what is the policy position of the Senate as regards, for instance, the generation of energy? We also leave this to the Secretary.

Senator Guingona: The generation of energy, at present, has already been allowed for private firms to put their own energy sources, and as I understand it, to sell power to the public under certain terms.

Senator Roco: I see. So generation will now be deregulated under the terms of what law are we referring to, or under the terms of what circular?

Senator Guingona: Yes, under the present system. This was regulated before under the Aquino Administration, which was not implemented. I understand that private firms can set

up their own generation now.

Senator Roco: How about refining? What will be the policy position of the Senate as regards refining activities of oil companies? This will also be subject to regulation or supervision and control of the Secretary.

Senator Guingona: Oil companies, insofar as exploration.

Senator Roco: No, on refining. As to exploration, there is very little we can do about it.

Senator Guingona: Refining, yes, under the present law, it could still be regulated.

Senator Roco: So there is really no change. Despite the Department of Energy, there is really very little change. We have to rely on the existing law as regards refining, as regards pricing, as regards generation of power, electric power. We rely only on the present laws.

Senator Guingona: Yes. Except that in certain instances, the Secretary may administratively allow deregulation.

Senator Roco: Is it not correct to say that the NAPOCOR has control now over the electric generation in the country, and that it has control over all this electricity generation in the Philippines today?

Senator Guingona: Yes. Until very recently, the NAPOCOR had a monopoly of generation.

Senator Roco: Yes. And it has control and supervision over these generation activities. And because of this power and centralized control of NAPOCOR, we now enjoy the regime where the power corporation generates more darkness than light.

Senator Guingona: May we have that again, please.

Senator Roco: What I am saying, Mr. President, is, have we not learned that decentralization of power of NAPOCOR has precisely brought about this regime where the National Power Corporation brings more darkness during the more critical times of the working day than light? All these concerns for control is one of the causes of our energy crisis today. And making it more powerful and making it more centralized, it seems to me, will not solve the problem.

Senator Guingona: Yes, I understand the concern of the

distinguished Gentleman. But if we analyze the situation deeper, I think it can be traced, basically, to lack of foresight and mismanagement rather than regulation and control.

Senator Roco: What in all these powers granted to the Secretary will guarantee that he will have better foresight than what we have seen in the past?

Senator Guingona: It is really a combination of the mandate of the law and the mandate of the times, Mr. President, and the accountability that we will attach.

Senator Roco: I thought, Mr. President, that, precisely, this foresight and far-reaching planning abilities of a dynamic Secretary is accentuated when market forces are allowed to play. But here, we seem to be holding on to the control of market forces for at least four more years, and yet we are told that there is a need to generate private enterprise involvement in the generation of energy.

So, I cannot follow, and I cannot reach the same conclusion, Mr. President, based on the same presentation of facts. It seems to me that the sooner the Congress pinpoints the areas of deregulation, the better we can tap the creativity and dynamism of private enterprise. But here, we seem to be setting it four years later. Why, when we are being told that there is an emergency now? So, why do we want to delay the solution now?

We are told that there is a major emergency and crisis in energy today. So the answer is: Four years from now, we will have figured out the Secretary, who is dynamic with supervision and control over these energy projects, maybe, will come up with a solution.

Now, I do not quite buy, Mr. President, why that is an acceptable answer from Congress.

Senator Guingona: I understand the concerns, Mr. President. But deregulation will not automatically bring in the solution because in the wake of deregulation, there may be disparate elements that may not result in resolving the power problem. There is a distinction between deregulation and privatization. We, certainly, would allow privatization, but in the context of protecting the consumer also there has to be some sort of regulation.

In the case of the Hopewell bid, Mr. President, to put up a gas turbine under the BOT, the price of electricity that they would charge would be about P4 per kilowatt hour for the first year, and then going up all the way to P8 per kilowatt hour. If we were to deregulate this immediately, it might result in

some harmful consequences to the consumer.

So, while recognizing the need of harnessing private entities, I think, they themselves would realize that in an emergency like this, we can all work together to bring about a more comprehensive solution to the problem, Mr. President.

Senator Roco: So how is this supposed to operate, Mr. President? We will ask private enterprises to generate their own power. And then?

Senator Guingona: Yes. And then, they can sell power under the terms set by the Department of Energy.

Senator Roco: Would the Gentleman know of any major company that would want to go into such highly intensive investment activity under those conditions where one brings in his money and builds his power plant, but we will tell him how he can sell it for? Would the Gentleman be able to share with us who are these eleemosynary angels that are flying about?

Senator Guingona: Yes, Mr. President. There are already four companies which have been awarded bid contracts, and there are several others where the Government has guaranteed that it will purchase all the power generated by these private firms at a certain price in accordance with certain variables or givens.

Senator Roco: So there are four companies now that would be interested in going into power-generation activities.

Senator Guingona: Yes, which have already contracts, as a matter of fact, under the fast-track program entered into by the previous administration.

Senator Roco: We are not free, of course, to divulge the names of these companies.

Senator Guingona: One is Mitsubishi, I think, and one is an Italian firm, Enron.

Senator Roco: And where will they generate power?

Senator Guingona: Here in the Philippines.

Senator Roco: I have no doubt about that; but in Manila?

Senator Guingona: Yes, mostly in Manila.

Senator Roco: In Manila.

Senator Guingona: Batangas, Manila. I think Senator Macapagal-Arroyo can help us.

Senator Roco: It is a very welcome news, Mr. President, that we have such private companies. And will they get repaid on the basis of contracted electric power given to Government or to Napocor?

Senator Guingona: The government will buy.

Senator Roco: Will the Napocor buy from the four?

Senator Guingona: From the four.

Senator Roco: So the four will generate and they will sell to Napocor for a fixed rate.

Senator Guingona: Yes. Either directly or the collections go back to them.

Senator Roco: If that is so, Mr. President, maybe we can see our way clear to agreeing with the Gentleman. But I would still prefer to know the names so that they are on record, because I would like to meet these companies that are so generous. In the future, when some other Senate or some other Congress starts reviewing their records, maybe we shall see how generous they have been.

But would the Gentleman reverse the first phrase of the third paragraph, not so much at the end of four years but not later than four years so that then we have a greater flexibility in terms of deregulation if that is possible.

Senator Guingona: That is the wording of Senator Angara. I yield to Senator Angara on that point.

Senator Roco: I guess he would want also to accelerate deregulation if possible, not later than four years.

Senator Guingona: Within the four years, Mr. President, the Secretary can already implement deregulation schemes administratively and whatever is allowed. Within the four years, he can present a program of deregulation.

Senator Angara: Mr. President, this provision was accepted by those of us who are firm advocates of deregulation as a way of breaking the deadlock on this bill. Because while we are prepared to go and vote on this issue, we wish that the Body be presented with a compromise provision, and the Minority Leader presented to us this compromise provision.

This provision will continue deregulatory powers pres-

ently being exercised under existing laws. But it will only be for a period of four years, because at the end of the said period, we propose that a deregulation program be instituted and that means for deregulation be implemented.

We have been made to understand, Mr. President, by the Proponent as well as the Sponsor that, notwithstanding, this does not preclude the President and the Secretary of Energy from deregulating activities related to energy even now.

The President: Is it then clear that the four-year period is the maximum term and that the term itself is self-executing without the need of any further law or regulation?

Senator Angara: Yes, Mr. President. We believe that the language employed now sufficiently captures the concepts we are now discussing.

Senator Roco: Mr. President, I think there is disagreement in concepts. But if we are saying that there can be deregulation even before the end of the four-year period then, maybe, we should say so.

Because, right now, as I understand it, what is pending is the phrase "at the end of four years". Based on the explanation, what we are saying is that no later than four years from now, there shall be deregulation. I think the concept is agreed right now, Mr. President. But, maybe, we should rephrase it to precisely indicate that there can be deregulation sooner than four years.

The President: With the permission of the three Gentleman on the Floor, the Senate President Pro Tempore is recognized.

Senator Maceda: Mr. President, this is supposed to be a compromise. I think, before my distinguished Colleague from the Bicol area gets too far ahead of us, I would like to remind him that this Representation as well as the Author had an original position of completely being against deregulation, especially when it comes to certain areas like pricing or anything that affects pricing.

So, certainly, any new or a backtracking to a concept where within four years certain forms of deregulation, unless they are those of administrative nature, are clearly not prohibited by existing law or policy, I do not believe that we can read that into the interpretation of this present amendment. Precisely, the compromise is the four-year period as far as we are concerned.

If the Gentleman will recall in one of our caucuses, I said,

"If you will agree to deregulation after 10 years, then I have no problem." So, in effect, we already went down from an original position of no deregulation at all, especially in relation to what is being requested by the multinational oil companies. And now to 10 years, and now to four years.

So, any interpretation, Mr. President, that would, in effect, reduce the four years further, I believe is not part of an acceptable compromise.

Senator Roco: Mr. President, as I understood the discussion, what was being stated is that because of the control and supervision of the Secretary, there might be a possibility that earlier than four years, there will be deregulation. But that is not what is being said now. So, could it be clarified as to what exactly we are saying?

In fact, that is how I started the question. What exactly are we saying in the proposed draft?

Senator Guingona: Mr. President, there are areas where privatization, if not deregulation, can be resorted to even during the four years. The example is the private firms being allowed to generate their own power.

There are also administrative measures that can be implemented by the Secretary, if in his judgment, there is a need to do so. But the department, Mr. President, is governed by existing laws. And within four years, he can recommend a program of deregulation, which could be instituted after the term of four years, which, hopefully, will coincide with the resolution of the present energy crisis.

Senator Roco: It is not altogether clear to me, Mr. President, why this is a step forward in the proposition to improve the energy situation of the country. And those are my reservations, Mr. President, and I think that is how I see and understand this provision.

The sad thing, Mr. President, is, after laboring on this Department of Energy, we might just be laughed off not only by the private enterprise, but even by the people, because the way we are describing it, it may be in effect a Department of Energy with supreme powers, with critical powers, but with very little policy direction. So we are now back to relying, as the Sponsor of the amendment said, on the dynamism of one presumably very competent Secretary of the Department of Energy for the future of the Republic.

I thought, Mr. President, that we have learned historically that there is no single individual in the country who could possibly furnish us with answers to our crisis, and that the

greater the participation and the greater--the incumbent President calls it "empowerment"--the "people empowerment" we can give to as many different sectors, I thought that was the solution already to the future of the Republic. But if the Sponsor to the amendment, who represents the administration, Mr. President, and the Sponsor of the Committee Report, feels that relying upon one patient and very dynamic Secretary of the Department of Energy to solve our problems, instead of involvement by as many sectors as possible, if they feel that that is the way to go, then I guess that it be approved by those who share that view.

Thank you, Mr. President.

The President: There is still one hanging matter. This is the view that has been suggested by the Senate President Pro Tempore, and that is, subject to the approval or upon approval by the President of the Philippines. There has been no motion to that effect, although apparently there has been acceptance of the concept.

Senator Guingona: Yes, Mr. President, we reworded it: SHALL INSTITUTE UPON APPROVAL OF THE PRESIDENT the program of deregulation.

The President: Is this acceptable to the...

Senator Alvarez: Yes, Mr. President.

The President: All right.

Senator Guingona: And the Sponsors also--Senators Angara and Osmeña--would like us to manifest that during the four years, if there is a need for a deregulation, the Secretary may do so, provided he does so in accordance with law.

The President: And is that covered by the language of the amendment?

Senator Guingona: Yes, Mr. President.

The President: All right.

Senator Biazon: Mr. President.

The President: Senator Biazon is recognized.

Senator Biazon: Thank you, Mr. President. Will the Honorable Minority Leader...

The President: With the permission of Senator Biazon, I think one clarification needs to be made by Senator Roco.

Senator Roco: Yes. I am sorry, Mr. President. But it is not precisely reflected in the wordings. What the Gentleman is saying is, that within four years there can be deregulation. That is not what the wording is saying. It says "at the end of the four-year period."

Senator Guingona: It is not, but that is what Senators Angara and Osmeña wanted entered into the records.

Senator Roco: So, what we are putting on the face of the bill is not what we mean.

Senator Guingona: Because in the gamut of energy affairs, we cannot pinpoint and say which is to be regulated, which can be relaxed.

Senator Roco: No, we are now just down to the four years. What we are saying is that within the first four years, you may deregulate or you may not.

Senator Guingona: If there are administrative areas which can be done or if there is proper amendment of legislation, we can do so.

Senator Roco: I see. But what the Gentleman is saying is that at the end of four years, there shall be deregulation.

Senator Guingona: There is a mandate.

Senator Roco: I was just responding to the statement of the Senate President that it is reflected on the words of the proposal, and at the very least, the words of the proposition does not seem to reflect that.

That is all, Mr. President.

The President: In short, what is not prohibited can be done. I think that seems to be the sum total of what is being said here. Is that correct, Senate Minority Leader?

Senator Guingona: Yes, Mr. President.

The President: All right, Senator Biazon.

Senator Biazon: Thank you, Mr. President.

Will the Honorable Minority Leader answer to some clarificatory questions?

Senator Guingona: Willingly, Mr. President.

Senator Biazon: Mr. President, with this bill, we are

trying to answer two main objectives.

First, is to answer to the need for a strong body to coordinate the generation especially of energy during the crisis period, and provide a law for the long-term overseeing or management of the energy industry.

Now, there are portions which provide for the first and I would like to say that the first paragraph of these proposed amendments provide for the authority and strength needed by the Department of Energy to coordinate, supervise and control the generation of energy.

The Secretary shall exercise supervision and control over energy projects in order to attain the goals embodied in Section 1 of this Article.

Mr. President, up to when will the Secretary exercise supervision and control over all these energy projects?

Senator Guingona: As stated in the latter portion of the bill, Mr. President, the program of deregulation will be instituted at the end of four years.

Senator Blazon: At the end of four years, the authority of supervision and control by then would be given up, cut off.

Senator Guingona: Diminished.

Senator Blazon: Diminished.

At present, between now and the fourth year, what happens to this autonomous existence of some of the attached agencies or instrumentalities to the department considering that the definition of control by a Supreme Court ruling includes substitution of judgment?

Senator Guingona: Yes, but the bill itself or the law will provide for specific instances where the judgment of the agency cannot be controlled by the Secretary. For example, the ERB would be a quasi-judicial body relatively independent from the control of the Secretary. The Secretary cannot tell the ERB or cannot replace its judgment in the matter of fixing of prices.

Senator Blazon: Thank you, Mr. President. I was just concerned with us trying to find a high breed between a doberman and a chihuahua. We are looking for a doberman to attend to the needs of the emergency crisis in energy, we might end up confining the ferocity of the doberman in the small body of the chihuahua, and the tame attitude of the chihuahua in the big body of the doberman. I hope that this

law which we are proposing will be able to meet the two almost completely different requirements of crisis and over the long-term management of our energy crisis.

Thank you, Mr. President.

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

The Majority Leader is recognized.

Senator Romulo: Mr. President, in view of the fact that the hour is late, the Sponsor has stated that we will resume consideration of these amendments tomorrow.

I also ask that we suspend consideration of Senate Bill No. 695, the Department of Energy bill.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 695

The President: Is there any objection? [Silence] There being none, consideration of the Department of Energy bill is hereby suspended.

Senator Romulo: May I ask that Senator Rasul be recognized.

The President: Senator Rasul is recognized.

Senator Rasul: Mr. President, before we adjourn, I would just like to make a manifestation.

The President: Please do so.

MANIFESTATION OF SENATOR RASUL
(Senators Shahani and Coseteng as Cosponsors
of Senate Bill No. 118, Senator Revilla as a
Cosponsor of Senate Bill No. 842)

Senator Rasul: With regard to Senate Bill No. 118, establishing a Barangay Reading Center, Senator Shahani and Senator Coseteng are cosponsors.

With regard to Senate Bill No. 842, An Act to Declare the Crime of Rape a Heinous Crime, Senator Revilla is also a cosponsor.

The President: Is there any objection? [Silence] There being none, both manifestations are hereby adopted and made of record.

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SENATE

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OCTOBER 19 TO DECEMBER 18, 1992

VOLUME II, NOS. 29-44

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RECORD OF THE SENATE

MONDAY, OCTOBER 19, 1992

OPENING OF THE SESSION

At 3:44 p.m., the Honorable Neptali A. Gonzales, President of the Senate, called the session to order.

The President: Binubuksan ang ikadalawampu't-siyam na sesyon ng Senado.

Inaanyayahan ang lahat na ating awitin ang Pambansang Awit sa pangunguna ng MWSS Choir na magbibigay rin sa atin, pagkatapos noon, ng isang awiting pinamagatang "Pag-yamanin Ang Kapaligiran." Pagkatapos ay mananalangin tayo sa pangunguna ni Senadora Anna Dominique M.L. Coseteng.

Everybody rose for the singing of the National Anthem.

After the singing, everybody remained standing for the opening prayer.

PRAYER

Senator Coseteng:

Heavenly Father, the Giver of all life, we call on Your blessing upon us so that we may accomplish what we have set out to do.

Help us to give full meaning to all the expressions of concern for our people and our environment.

You have so richly endowed our land with forests and rivers and mountains, with its bountiful flora and fauna.

All these You have given us as Your chosen people in this land, for us to use, and not abuse.

Grant us the wisdom to understand that our very own human survival depends on the continuing existence of these natural resources.

Enlighten each one of us and help us remember our pristine purpose when we first sought the position we now occupy.

Let not our noble objectives be clouded by considerations that will not benefit the greater number of our people who are, in fact, in most need of our concern.

We thank You, Lord, for the opportunity You have given us to serve our country and our people.

May the service we render be truly acceptable before Your eyes.

Amen.

SUSPENSION OF THE SESSION

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

It was 3:51 p.m.

RESUMPTION OF THE SESSION

At 3:53 p.m., the session was resumed.

The President: The session is resumed.

Babasahin ng Kalihim ng Senado ang talaan ng mga Senador.

ROLL CALL

The Secretary:

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Rodolfo G. Biazon	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Jose D. Lina, Jr.	Present
Senator Gloria Macapagal-Arroyo	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator John H. Osmeña	Present*
Senator Santanina T. Rasul	Present*
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Leticia R. Shahani	Present*
Senator Vicente C. Sotto III	Present
Senator Wigberto E. Tañada	Present
Senator Francisco S. Tatad	Present
Senator Arturo M. Tolentino	Present*
Senator Freddie N. Webb	Absent
The President	Present

* Arrived after the roll call

other amendments in that paragraph, but they can all be incorporated in that paragraph.

Senator Shahani: It is accepted, Mr. President.

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

ROMULO AMENDMENT

Senator Romulo: Mr. President, may I now propose that the title will also be amended accordingly. So that in lieu of "AN EXECUTIVE BIPARTISAN LEGISLATIVE ADVISORY COMMITTEE," we rephrase that to read: A BIPARTISAN LEGISLATIVE-EXECUTIVE ADVISORY COMMITTEE.

Senator Shahani: It is accepted, Mr. President.

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

Senator Romulo: Mr. President, I ask that we now close the period of individual amendments.

The President Pro Tempore: Is there any objection? [Silence] There being none, the period of individual amendments is closed.

ADOPTION OF SENATE RESOLUTION NO. 127

Senator Romulo: Mr. President, I move that we approve Resolution No. 127 as reported out under Committee Report No. 27, as amended, entitled "RESOLUTION TO FORM A BIPARTISAN LEGISLATIVE-EXECUTIVE ADVISORY COMMITTEE TO STUDY THE SABAH ISSUE WITH A VIEW OF FORMULATING A COMMON STAND."

The President Pro Tempore: Is there any objection? [Silence] There being none, Proposed Senate Resolution NO. 127 is approved.

SUSPENSION OF THE SESSION

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

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

It was 4:21 p.m.

RESUMPTION OF THE SESSION

At 4:23 p.m., the session was resumed.

The President Pro Tempore: The session is resumed.

BILL ON SECOND READING

Senate Bill No. 695 - Creating the Department of Energy (Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 695, as reported out under Committee Report No. 5.

We are still in the period of individual amendments, Mr. President. Yesterday, I believe that we approved amendments up to Section 4(d).

The President Pro Tempore: Resumption of consideration of Senate Bill No. 695 is now in order.

Senator Romulo: Mr. President, I ask that the Sponsor, Senator Alvarez, be recognized.

The President Pro Tempore: The Gentleman from Isabela is recognized. We are now in Section 4(e).

Senator Alvarez: The Committee is now prepared to welcome proposed amendments starting from subsection (e) of Section 4, Mr. President.

Senator Revilla: Mr. President.

The President Pro Tempore: The Gentleman from Cavite is recognized. Senator Revilla is recognized.

Senator Revilla: Mr. President, I have some individual amendments to make, if the Gentleman from Isabela would allow.

Senator Alvarez: With pleasure, Mr. President.

Senator Revilla: On page 13, line 2, change the period after the word "policies" to semi-colon and add the following: AND PROVIDED, FINALLY, THAT INDIVIDUALS POSSESSING THE SAME QUALIFICATIONS HEREIN MENTIONED, SENIORITY SHALL BE GIVEN PRIORITY.

Senator Alvarez: Mr. President, we should now be in subsection 4(e). If there are no proposed amendments to subsection 4(e), may I move for the approval of this subsection.

and then, we can proceed to the proposed amendment of the Gentleman from Cavite.

The President Pro Tempore: In view of the fact that no other Member of the Senate is ready to propound individual amendments, I suggest that we go ahead with the amendments of the Gentleman from Cavite.

Senator Alvarez: Will the Gentleman from Cavite reiterate to which line and subsection?

REVILLA AMENDMENT

Senator Revilla: On page 13, line 2, change the period after the word "policies" to semi-colon and add the following: *AND PROVIDED, FINALLY, THAT INDIVIDUALS POSSESSING THE SAME QUALIFICATIONS HEREIN MENTIONED, SENIORITY SHALL BE GIVEN PRIORITY.*

Senator Alvarez: It is accepted, Mr. President.

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

Senator Revilla: Still on page 13, line 5, the word "one (1) year" between the words "within" and "from", I propose that they be deleted and instead the word THREE (3) MONTHS be inserted.

My reason is that one year is too long a time for laid off employees to wait for whatever little amount due them. The office should immediately take steps to pay them.

I repeat. I propose that the words "one (1) year" between the words "within" and "from" be deleted and instead the words THREE (3) MONTHS be inserted.

Senator Alvarez: I would love to have this amendment, Mr. President, but would this be realistic? Can we really come up within that short span of time?

Will the Gentleman consider at least five months?

The President Pro Tempore: Six months would be more...

Senator Alvarez: Six months. *Baka po hindi natin maipatupad iyong tailong buwan, lalong maraming magagalit sa gusto nating tulongan.*

Senator Revilla: Okay.

Senator Alvarez: Six months. It is accepted, Mr. President.

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

Senator Revilla: That is all, Mr. President. Thank you.

Senator Alvarez: Thank you, Gentleman from Cavite.

Mr. President, if there are no amendments for subsection (e), may we now proceed to subsection (f), and introduce our own individual amendments if there are no other amendments.

The President Pro Tempore: Are there any amendments on page 3?

Senator Guingona: Mr. President.

The President Pro Tempore: The Minority Leader is recognized.

Senator Guingona: Just to make a clarification, Mr. President.

We have already deleted the power of the Secretary and that means the powers and functions of the department shall mean also the powers of the Secretary. Just to clarify from the distinguished Sponsor.

Senator Alvarez: We have not deleted the powers of the Secretary, Mr. President, because these are executive powers, specifically, mandated for the Secretary. But the powers of the Department are the extent of the policy powers, which may be exercised by the Secretary. The powers of the Secretary in Section 7 are management powers, Mr. President.

Senator Guingona: Yesterday's amendment was pertinent to really the powers of the Department in 4(d). But it said "Secretary", so adjustments will just have to be made, Mr. President. Because the amendment yesterday, the compromise amendment, referred to the power of the Secretary. So may we just make that a power of the department.

The President Pro Tempore: The Senate approved yesterday the amendment to substitute the old "4(d)" with the new amendment. So it is under the powers of the department.

So there is in effect a motion to reconsider that approval to make a slight change.

Senator Guingona: Yes, only for that purpose, Mr. President.

President Pro Tempore: Is there any objection? [*Silence*] Hearing none, the amendment is reconsidered.

Senator Guingona: Therefore, I propose that that power approved yesterday be lodged with the power of the Department.

The President Pro Tempore: Subject to style. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Page 4.

Senator Roco: Mr. President.

The President Pro Tempore: The Gentleman from Camarines Sur and Bohol is recognized.

Senator Roco: Mr. President, may we suggest an additional power for the department, or additional duty, if you wish. The wordings can be improved upon later on. But may we suggest the following wordings in the meantime: TO ENSURE THAT THE REGIONS THAT SOURCED THE ENERGY GENERATION SHALL HAVE PREFERENTIAL BENEFITS FROM THE POWER GENERATION.

The idea, Mr. President--I have been grappling with the words, but maybe we can ask the Staff to help us word it.

Senator Alvarez: Mr. President, is the Gentleman referring to a specific provision so I can follow him?

Senator Roco: Yes. We are seeking to add another power for the Department. Could I just explain the idea, and maybe the Sponsor may even help us word it.

All the areas which originates the source of power generation tend to complain. Maria Cristina, for instance, says that they pay higher electricity. The Bicol region complains in the same manner. Some provinces in Iloilo, in Panay, complain in the the same manner. What I am trying to do, Mr. President...

Senator Alvarez: In Albay, Bicol.

Senator Roco: Yes. The Gentleman was into it and yet the Constitution mandates that the residents of a certain area from which emanates certain resources must be recompensed. So the idea is to mandate the department to seek ways and means by which the region or the locality which gives or generates power for the rest of the country shall benefit by being the originator of that power.

And one of the reasons for this, Mr. President, is because you deplete them. It is not a sustainable resource. After so many years, they will not have that resource anymore, and therefore, there must be a way of recompensing them as the rest of the country takes away energy from those areas.

Senator Alvarez: Mr. President, I am not averse to the proposal. As a matter of fact, I want to encourage it. But may I ask the Gentleman if he has already considered the tax sharing innovations that we have introduced under the Local Autonomy Act.

Senator Roco: Yes, Mr. President.

In fact, that is one of the problems, because they do tend to look at the tax sharing only in the local government. But President Ramos, for instance, has said, "There may be a franchising or royalty arrangement". But rather than leave this to the negotiating capacity of the regions or the provinces, what I am saying is that maybe, we should direct already the energy department to have an overall balance development of the country as they plan the future of energy in the Philippines to already plan ways and means by which the locality that contributes energy shall benefit, because of its contribution to the national effort.

Senator Alvarez: Will the Gentleman consider a few thoughts, Mr. President?

Senator Roco: Yes, Mr. President.

Senator Alvarez: First, that a scheme within certain metes and bounds will have to be worked out by the department for a particular locality.

Senator Roco: I think, as a policy consensus, since we have decided to give the flexibility to the department and the Secretary, I am just putting this guideline so that it becomes a definite objective and function of the department.

Senator Alvarez: A broad policy guideline, Mr. President.

Senator Roco: Yes, and we will put it under the powers so that the department shall always seek ways and means by which the locality that contributes generation of power to the rest of the country shall be recompensed or shall have direct benefits from such contribution.

We can word it later on, Mr. President, we are on page 3 now.

Senator Alvarez: Mr. President, will the Gentleman be able to accommodate his proposal under subsection (f) as part of incentives?

Senator Roco: No, it goes beyond incentives, Mr. President, and it specifically addresses the concern of the areas that give us the energy like geothermal...

SUSPENSION OF THE SESSION

Senator Alvarez: May I ask for a break of one minute, Mr. President?

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

It was 4:37 p.m.

RESUMPTION OF THE SESSION

At 4:47 p.m., the session was resumed with the Honorable Jose D. Lina Jr., presiding.

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

Senator Alvarez is recognized.

Senator Alvarez: Mr. President, I have already discussed with the Gentleman from Bicol, and I am amenable to that worthy gem of a proposed amendment.

But before we do that, Mr. President, can we handle subsection (f) to introduce my own individual amendment?

The Presiding Officer [Senator Lina]: Subsection (f).

ALVAREZ AMENDMENT

Senator Alvarez: On page 3, line 24, after the word "incentives", insert the phrase AND PENALTIES. So that the subsection will now read: "formulate and implement programs including a system of providing incentives AND PENALTIES to encourage more efficient use of energy in all energy-consuming sectors of the economy."

Senator Roco: How does it read, Mr. President?

The Presiding Officer [Senator Lina]: On line 24, the amendment is to add the phrase AND PENALTIES after the word "incentives."

Senator Alvarez: So line 24 would read: "system of providing incentives AND PENALTIES."

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

ROCO AMENDMENT

Senator Roco: May I now propose the additional power, Mr. President.

TO DEVISE WAYS AND MEANS AS AN ADDITIONAL POWER, after line 28, Mr. President.

The Presiding Officer [Senator Lina]: It will be letter (h) therefore?

Senator Roco: Yes, Mr. President.

TO DEVISE WAYS AND MEANS OF GIVING EQUITABLE PREFERENTIAL BENEFIT TO THE REGION THAT HOST THE ENERGY-GENERATING FACILITY.

Senator Alvarez: It is accepted, Mr. President.

Senator Roco: Yes.

May we just, Mr. President, tax the patience of the Sponsor by putting the intention. The intention is to answer the long complaints of cities like Cagayan de Oro or Iligan, where there is a discrepancy in the payment of power, and the Iligan people do complain that they get punished, although the resource is from them.

The same can be said about the people from Tiwi, as the good Sponsor has pointed out, and the people of Lagonoy, because although they do not belong to Albay, they have environmental problems as a consequence of hosting the power generation.

Thus under this proposal, Mr. President, which has been kindly accepted, we then direct the department to make sure that residents of the regions, and this was agreed upon consciously for developmental purposes, shall have some recompense, both for contributing to the power situation and for whatever environmental suffering they may bear, because of the generation of power.

The Presiding Officer [Senator Lina]: I saw the Gentleman from Cebu and Bohol raising his hand. After Senator

Herrera, then Senator Guingona, the Minority Leader.

Senator Herrera: I am sure, Mr. President, that my *pinsan*, Senator Roco will not object if I will propose an amendment to the amendment, provided this will not deprive the other regions of their energy requirements.

I think I will just make it very clear. I think there should be preferential, provided that this will not deprive--

Senator Alvarez: Will the Gentleman please repeat the amendment to the amendment?

HERRERA AMENDMENT

Senator Herrera: *PROVIDED, THAT THIS WILL NOT DEPRIVE THE OTHER REGION'S OF THEIR ENERGY REQUIREMENTS.*

The Presiding Officer [Senator Lina]: What does the Proponent of the amendment to the amendment say?

Senator Roco: Could I read the total amendment with the proposed amendment?

The Presiding Officer [Senator Lina]: Please do so.

Senator Roco: So it shall say: ...TO DEVISE WAYS AND MEANS OF GIVING EQUITABLE PREFERENTIAL BENEFIT TO THE REGION THAT HOSTS THE ENERGY-GENERATING FACILITY, *PROVIDED, HOWEVER, THAT IT WILL NOT DEPRIVE OTHER REGIONS OF THEIR ENERGY REQUIREMENTS.*

I would accept the proposed amendment to the amendment.

The Presiding Officer [Senator Lina]: Is there any objection to the amendment, as amended?

Senator Maceda: Mr. President.

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

Senator Maceda: Mr. President, may I just ask the Sponsor of the amendment to clarify what is meant by "energy-generating facility"?

Senator Roco: It could be geothermal, it could be the dam, the Ambuclao dam, it could be--if somebody discovers some other natural gas at Palawan--all these that may be the

source or may host the energy-generating facility, the region to which it belongs will have some recompense, or some direct benefit.

Senator Maceda: I just wanted to clarify that, because if the intention is to make this recompense rather substantial, I was precisely thinking of the natural gas, or if we include the oil that will be taken out of Palawan, we might have a situation where people from the geothermal area in Bicol or the energy facility in Maria Cristina, might suddenly find that this formula is not going to be exactly favorable to them, if we take later on the higher value that, let us say, such a big natural gas from Palawan will preserve for the region.

Senator Roco: The saving standard, Mr. President, is what was introduced by the Sponsor, the word "equitable". But we must leave this to the judgment of the department because we do not have sufficient information to grapple with all the different permutations.

Senator Maceda: Mr. President, I understand the rationale, and it is a very popular rationale right now. I am not really, at this point, minded to oppose it. I am just bringing the point that if we pursue this policy to its logical conclusion, in a sense, we might have a situation where people from Pangasinan and the Cagayan Valley will say, "Well, since we produce the principal rice crop for the entire country, then the biggest portion of the Department of Agriculture's budget should go to our region."

Meaning to say, from a macro standpoint which the distinguished Gentleman from Camarines understands very much-- and this is quite a new concept which the people of the Iligan area have long been proposing--we might just end with a situation where we will have a big controversy every time that there is a new resource that is discovered in a particular area.

Senator Roco: Mr. President, it is a largely settled issue not so much because of Iligan or the Bicol demands. I just could not find it right now but, in fact, it was Senator Ople--I hope he comes back soon--who pointed out that he precisely put in the provision in the Constitution the principle that residents in the area which source the developmental activity must have some direct benefits.

I can appreciate the danger, Mr. President, as pointed out by the distinguished President Pro Tempore, but it is already something that has been done by the past Congress.

We might recall--in fact, this is the argument I keep using even with President Ramos--that the Tobacco Bill, because of

the state of the tobacco industry, both the House and the Senate gave them developmental funds of P1 billion, I think, as a way of recompense, as a way of appreciating the dwindling reserve, in a manner of speaking, the dwindling status of the tobacco industry. And so, that principle has already been established. We therefore leave it to the equitable judgment of the department and the Secretary to insure that in giving these benefits or royalty benefits to the region that originates the power, there is some direct enjoyment by the residents. In that way, we equalize opportunities.

Senator Maceda: As I said I am not going to really pursue the point. The other side of this argument, Mr. President, is that we could easily have a debate as to who is really paying for the benefits: Is it the energy-generating area or is it the energy-consuming area by way of the tremendous amount of money that they pay to the energy generators?

Senator Roco: Fortunately, Mr. President, we do not have to debate that anymore because we agreed to delegate, in fact, to the Department and the Secretary the balancing of these social factors.

Senator Maceda: I just wanted to put these things in the record. I have some reservations about it, but not serious because we cannot, at this point, really quantify the effect of this particular amendment.

I just wanted to put on record that if it will be applied to certain regions who generate certain things then, as he said, even taking off the Tobacco Bill, we might be really setting again an additional precedent here where every area and every region will ask for certain benefits to the detriment of the entire country. Because what happens is that, the poorer regions which have no natural resources, no energy-generating projects, no income-producing projects, will be affected by this policy.

Senator Roco: In fact, Mr. President, that was taken into consideration. We appreciate that point. That is why we suggested "REGION" because there are provinces which will have absolutely no capacity for sourcing. So we enlarged the opportunity to "regions" so that Mindanao may have two different areas that can share with the rest of Mindanao.

Panay Island may be one region by itself. It has resources. Bulacan and the Luzon areas can have the North, the Central, and the Bicol Region. By regionalizing it, we equalize opportunities even for the smaller provinces which have no such resources.

The Presiding Officer [Senator Lina]: Will Senator

Roco again read the amendment, as amended, for clarity?

Senator Roco: Mr. President, the additional paragraph will read:

TO DEVISE WAYS AND MEANS OF GIVING EQUITABLE PREFERENTIAL BENEFITS TO THE REGION THAT CAUSED THE ENERGY-GENERATING FACILITY; PROVIDED, HOWEVER, THAT THE OTHER REGIONS SHALL NOT BE DEPRIVED OF THEIR ENERGY REQUIREMENTS.

Senator Alvarez: It is accepted, Mr. President.

The Presiding Officer [Senator Lina]: The amendment has been accepted by the Sponsor. Is there any objection?

Senator Guingona: Mr. President.

The Presiding Officer [Senator Lina]: Senator Guingona is recognized.

Senator Guingona: Mr. President, if the distinguished Sponsor will agree, why not just cite the constitutional provision, "pursuant to"?

Senator Roco: Yes, Mr. President. With the help of Senator Tañada, Section 7 of Article X lays down the principle, but it is localized. It says:

Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits.

Mr. President, in the debates--in fact it was Senator Ople who pointed this out--this is the basis for seeking some way of equitable benefits to areas that give us the source.

Senator Guingona: Yes. I just want to put on record, Mr. President, that since the region is big, "equitable" would be decided by the department in a manner where the source of energy should get a greater benefit than those where the direct sources are not forthcoming.

Senator Roco: Yes, Mr. President. In fact, there was really a concern for the region.

Take Bicol for instance, Mr. President. Del Gallego is in Camarines Sur and Camarines Sur is the largest province. But

making Camarines Sur enjoy the benefits is not good for the rest of the region because Camarines Norte will not have that source. So it must be region-based so that development can have a wider base in the regions. I hope this addresses the concern precisely of the distinguished Minority Leader.

The Presiding Officer [Senator Lina]: Let us go back now to the amendment. It has already been accepted by the Sponsor.

Senator Guingona: Mr. President.

The Presiding Officer [Senator Lina]: Yes, Senator Guingona.

Senator Guingona: Just for clarification, Mr. President. Except, perhaps, if it is solar energy.

Senator Roco: In which case, no one can ask for preference because the sun shines over all of us. I would imagine nobody should have preference for the sun.

The Presiding Officer [Senator Lina]: Is there any objection to the amendment, as amended? [Silence] There being none, the motion is approved.

Senator Roco: Mr. President, may we have another additional paragraph.

Since it has been the thrust of the amendments that there should be, eventually, privatization and deregulation, Mr. President, may we now propose an additional paragraph:

TO ENSURE THAT ALL PRIVATE ENTERPRISES ENGAGED IN ENERGY PROJECTS, WHETHER CORPORATIONS, COOPERATIVES, OR OTHER FORMS OF COLLECTIVE OWNERSHIP SHALL BE ENCOURAGED TO HAVE THE WIDEST POSSIBLE OWNERSHIP BASE.

In other words, Mr. President, what I am injecting is a factor that presumably at the end of four years, there will be privatization and deregulation. But this Chamber should not be happy with privatization or deregulation if only few of the big-time companies are controlling. It is not a source of joy for the Filipino people that we have privatization if only two guys own those private companies.

Therefore, Mr. President, we shall make it an objective of this Department of Energy that "ALL PRIVATE ENTERPRISES"--and those are the words of the Constitution, I am referring to Section 1 of Article XII--"ENGAGED IN ENERGY PROJECTS INCLUDING CORPORATIONS, COOP-

ERATIVES, AND SIMILAR COLLECTIVE ORGANIZATIONS SHALL BROADEN THE BASE OF THEIR OWNERSHIP."

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Roco: The wordings, Mr. President, are practically lifted from the third paragraph of Section 1, Article XII of the Constitution.

The Presiding Officer [Senator Lina]: Does the Sponsor accept or reject the proposed amendment?

Senator Alvarez: Mr. President, I am not averse to this concept. Perhaps it is a matter of style. I am trying to figure out which part of the bill it should be appropriately appended to.

Senator Guingona: Mr. President.

The Presiding Officer [Senator Lina]: Senator Guingona is recognized.

Senator Guingona: May we request the distinguished Sponsor to restate the proposed amendment.

The Presiding Officer [Senator Lina]: Will Senator Roco restate the proposed amendment?

Senator Roco: Yes, Mr. President. We are paraphrasing the second sentence of the third paragraph of Section 1, Article XII of the Constitution on the National Economy and Patrimony. So it is by way of implementing the constitutional requirement.

We wish to add another power or, if you would, duty on the part of the Department of Energy, and it will read as follows: TO ENSURE THAT ALL PRIVATE ENTERPRISES ENGAGED IN ENERGY PROJECTS because that is a defined term, INCLUDING CORPORATIONS, COOPERATIVES, AND SIMILAR COLLECTIVE ORGANIZATIONS, SHALL BROADEN THE BASE OF THEIR OWNERSHIP.

Senator Guingona: Mr. President.

The Presiding Officer [Senator Lina]: Senator Guingona is recognized.

Senator Guingona: If the distinguished main Sponsor has already accepted the proposed amendment, I just would like to point out that the proposed amendment is very com-

mendable. But I would like to ask the distinguished Sponsor how this will apply to foreign firms engaged in the exploration/development of our resources on a management basis or on specific exploratory arrangements.

Senator Roco: I do not have the mechanics with me, Mr. President, and maybe this is precisely what the department should also be defining. So that the goal in mind and the purpose of the exercise is to ensure that all those engaged in energy projects shall have the widest possible base of ownership. The Secretary or the Energy Department can then define ways and means.

The Presiding Officer [Senator Lina]: Senator Alvarez is recognized.

Senator Alvarez: Mr. President, perhaps we can readily accept that if we use less restrictive terminology. Because it is a fact that there are very few financially capable outfits that can undertake oil exploration because of the massive investment. For instance, in Nalampaya fields for one well alone, they spent as much as US\$18 million. In a shallow water they are spending about US\$6 million, and it is always a problem to bring about more exploration because of the lack of local capital or at times our inability to attract foreign capital. So much so, that for one whole year, we have had eight wells sunk in the Philippines where they had 499 wells in Indonesia and almost about 250 wells in Malaysia.

If the wording of this proposal would be to create that atmosphere and condition so that there would be broader participation for all activities relating to power generation exploration, and to the energy industry then.

Senator Roco: Yes.

Senator Alvarez: Not the word "ensure," Mr. President, because that is a little restrictive and maybe difficult.

Senator Roco: Maybe, "to encourage all private enterprises to broaden the base of their ownership."

SUSPENSION OF THE SESSION

Senator Alvarez: May I ask for a break, Mr. President?

Senator Roco: Yes.

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

It was 5:06 p.m.

RESUMPTION OF THE SESSION

At 5:09 p.m., the session was resumed.

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

Senator Roco is recognized.

ROCO AMENDMENT

Senator Roco: Yes, Mr. President. We are trying to craft the appropriate wordings of the additional power or duty. And it says, TO ENCOURAGE PRIVATE ENTERPRISES ENGAGED IN ENERGY PROJECTS, INCLUDING CORPORATIONS, COOPERATIVES AND SIMILAR COLLECTIVE ORGANIZATIONS, TO BROADEN THE BASE OF THEIR OWNERSHIP AND THEREBY ENCOURAGE THE WIDEST PUBLIC OWNERSHIP OF ANY ENERGY-ORIENTED CORPORATIONS.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: This is acceptable, Mr. President.

The Presiding Officer [Senator Lina]: Is there any objection? *[Silence]* Subject to refinement and style, the amendment is approved.

Senator Roco: Thank you, Mr. President.

The Presiding Officer [Senator Lina]: May the Chair know where that amendment will be located?

Senator Roco: That will be the new paragraph "i)". So we have new paragraphs "h)" and "i)".

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: That is correct, Mr. President.

The Presiding Officer [Senator Lina]: So, the previous letter "h)" will be "i)"?

Senator Roco: No, "h)" shall become J), and "i)" shall become K), Mr. President. We move it two letters down. The new line 29 shall be the new paragraph "h)" and then the next paragraph shall be the new paragraph "i)".

So the original paragraphs "h)" and "i)" shall move

down J) and K).

The Presiding Officer [Senator Lina]: All right. The Secretariat will take note of the amendment.

Any other amendment? Senator Maceda and then Senator Rasul.

MACEDA AMENDMENTS

Senator Maceda: My amendments are on top of page 4, if there are no anterior amendments.

Section 5, I think just for purposes of completeness, we should add also the two bureaus, the Energy Resource Development Bureau and the Energy Industry Administration Bureau.

Senator Alvarez: It is accepted, Mr. President.

The Presiding Officer [Senator Lina]: How will the Section read?

Senator Maceda: Remove the period after the word "Secretaries" and then put a comma after the two bureaus.

The Presiding Officer [Senator Lina]: The amendment having been accepted, any objection? [Silence] There being none; the amendment is approved.

Senator Maceda: And Section 6, a new paragraph. This should now be the new line 10 to read: NO OFFICER, EMPLOYEE, EXTERNAL AUDITOR, ACCOUNTANT OR LEGAL COUNSEL OF ANY COMPANY OR ENTERPRISE IN THE ENERGY INDUSTRY SHALL BE ELIGIBLE FOR APPOINTMENT AS SECRETARY WITHIN FIVE YEARS FROM HIS RETIREMENT OR RESIGNATION THEREFROM.

SUSPENSION OF THE SESSION

Senator Alvarez: May I ask for a recess, Mr. President?

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

It was 5:13 p.m.

RESUMPTION OF THE SESSION

At 5:23 p.m., the session was resumed.

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

Senator Maceda: The Sponsor has an amendment to the amendment, Mr. President.

The Presiding Officer [Senator Lina]: Senator Alvarez.

Senator Alvarez: With this amendment, Mr. President, may I read: NO OFFICER, EXTERNAL AUDITOR, ACCOUNTANT OR LEGAL COUNSEL OF ANY PRIVATE COMPANY OR ENTERPRISE PRIMARILY ENGAGED IN THE ENERGY INDUSTRY SHALL BE ELIGIBLE FOR APPOINTMENT AS SECRETARY WITHIN TWO YEARS FROM HIS RETIREMENT, RESIGNATION OR SEPARATION THEREFROM.

Senator Maceda: I accept the amendment, Mr. President.

The Presiding Officer [Senator Lina]: The amendment to the amendment having been accepted by the original Proponent of the amendment, is there any objection? [Silence] There being none, the amendment, as amended, is approved.

Senator Rasul and after her Senator Tatad.

Senator Rasul: Mr. President, on the same page, line 22...

Senator Tatad: Mr. President, an anterior amendment.

The Presiding Officer [Senator Lina]: Senator Tatad is recognized.

TATAD AMENDMENT

Senator Tatad: May I go back to Section 6, Mr. President. From line 7 to line 9, after the word "Secretary" up to the word "Appointments", may I propose the deletion of the words "who shall be appointed by the President, subject to confirmation by the Commission on Appointments".

I propose to insert the same words, more or less, on line 10, Section 7, after the word "Secretary", "The Secretary SHALL BE APPOINTED BY THE PRESIDENT SUBJECT TO CONFIRMATION BY THE COMMISSION ON APPOINTMENTS".

Begin a new sentence. After the word "Appointments" put a period, and insert the word HE. So that the whole

sentence would read:

“The Secretary SHALL BE APPOINTED BY THE PRESIDENT, SUBJECT TO CONFIRMATION BY THE COMMISSION ON APPOINTMENTS. HE shall have the following functions:”.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: Will the Gentleman restate the whole Section? Is the Gentleman amending Section 6 on the Office of the Secretary?

Senator Tatad: As amended, Section 6 would read as follows:

“Office of the Secretary. The Office of the Secretary shall consist of the Secretary and his immediate staff.”

Section 7 would read:

“The Secretary SHALL BE APPOINTED BY THE PRESIDENT, SUBJECT TO CONFIRMATION BY THE COMMISSION ON APPOINTMENTS. HE shall have the following functions:”.

Senator Alvarez: It is accepted, Mr. President.

The Presiding Officer [Senator Lina]: Is there any objection?

Senator Mercado: Minor amendment to the amendment, Mr. President.

The Presiding Officer [Senator Lina]: But prior to that, there was already an amendment introduced by Senator Maceda, and the amendment was approved.

Senator Alvarez: Mr. President, the one introduced by Senator Maceda is on Section 6.

The Presiding Officer [Senator Lina]: Yes, second paragraph of Section 6.

Senator Alvarez: Second paragraph, Section 5, Mr. President.

The Presiding Officer [Senator Lina]: So that is the placement of Senator Maceda’s amendment. I just want to clarify that matter.

Senator Alvarez: So, as amended, the Tatad Amendment will now fall under Section 6 and Section 7. No alteration in the numbering, Mr. President.

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

Senator Mercado: Parliamentary inquiry, Mr. President. Can we adopt a more gender neutral expression “he or SHE, instead of just plain “he”? What if the most qualified Secretary for this department is a woman? Should the choice be limited to men?

The Presiding Officer [Senator Lina]: The Chair believes that we have not adopted any policy on the matter.

MERCADO AMENDMENT

Senator Mercado: My proposed amendment to the amendment, Mr. President, is to add OR SHE after the word “he”.

Senator Alvarez: It is accepted, Mr. President, whenever appropriate.

The Presiding Officer [Senator Lina]: The amendment introduced by Senator Mercado has been accepted by the Sponsor. Is there any objection? [*Silence*] There being none, the amendment is approved.

For clarity, will the Sponsor read the previous amendments so that the Secretariat can be guided.

Senator Alvarez: We are now in the functions of the Secretary, Mr. President. If there are any proposed amendments...

The Presiding Officer [Senator Lina]: All right. That is clear enough. We will recognize Senator Rasul.

RASUL AMENDMENTS

Senator Rasul: Mr. President, if there are no anterior amendments on page 4, line 22, letter (c), I propose to delete the word “offices” and insert after the word “regional”, the phrase OR SEPARATE GRIDS. After the word “necessary”, insert the phrase OR BENEFICIAL;. So that line 22 (c) will read as follows:

“ c) create regional OR SEPARATE GRIDS as may be necessary OR BENEFICIAL.”

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: Will the Gentle Lady please restate the subsection with the proposed amendment?

Senator Rasul: On page 4, line 22, letter (c), delete the word "offices" and insert after "regional" the phrase OR SEPARATE GRIDS. Then after "necessary", the last word on that line, insert OR BENEFICIAL. So that letter (c) will now read as follows:

"(c) create regional OR SEPARATE GRIDS as may be necessary OR BENEFICIAL."

The Presiding Officer [Senator Lina]: The Chair would like to hear more distinctly the words up to the word "regional".

Senator Rasul: OR SEPARATE GRIDS as may be necessary OR BENEFICIAL.

Senator Alvarez: So, create regional...

Senator Rasul: OR SEPARATE GRIDS as may be necessary OR BENEFICIAL.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

There are two amendments--removing the word "offices" and in its place, "OR SEPARATE GRIDS as may be necessary". That is number one. The addition of the words OR BENEFICIAL is the second amendment.

Senator Alvarez: The amendments are accepted, Mr. President. We will give the Secretary the leeway to respond to this "cry-for-more-Mindanao identity."

The Presiding Officer [Senator Lina]: Is there any objection? [Silence] There being none, the amendment is approved.

ALVAREZ AMENDMENT

Senator Alvarez: Mr. President, we have an amendment. It should be an anterior amendment before letter (c) so that (c) will become (D):

A POWER OF THE SECRETARY IS TO DEVISE A PROGRAM OF INTERNATIONAL INFORMATION ON THE GEOLOGICAL AND CONTRACTUAL CONDITIONS

OBTAINING IN THE PHILIPPINES IN ORDER TO PROMOTE BROAD AWARENESS AND TO ADVANCE EXPLORATION AND DEVELOPMENT.

The Presiding Officer [Senator Lina]: Will the Sponsor please restate that amendment?

Senator Alvarez: DEVISE A PROGRAM OF INTERNATIONAL INFORMATION ON THE GEOLOGICAL AND CONTRACTUAL CONDITIONS OBTAINING IN THE PHILIPPINES FOR OIL AND GAS EXPLORATION IN ORDER TO ADVANCE THE INDUSTRY.

The Presiding Officer [Senator Lina]: Is there any objection to the amendment? [Silence] There being none, the amendment is approved.

That will be letter (c).

Senator Alvarez: That will be letter (c).

The Presiding Officer [Senator Lina]: And then the previous letter (c) will now be letter (D), and the previous letter (d) will be (E) and letter (e) will be (F).

Senator Herrera: Mr. President.

The Presiding Officer [Senator Lina]: Senator Herrera is recognized.

HERRERA AMENDMENT

Senator Herrera: With the permission of the Chairman, Mr. President, I would like to propose a very minor amendment. On line 12 of paragraph (a), after the word "effective", delete the word "or" under line 13. So that the sentence will read: "establish policies and standards for the effective, efficient and economical operation x x x"

Senator Alvarez: Which section is this, Mr. President?

Senator Herrera: Section 7.

The Presiding Officer [Senator Lina]: Letter a) of Section 7.

Senator Alvarez: Is this an anterior amendment?

Senator Herrera: Yes, Mr. President.

Senator Alvarez: Will the Gentleman restate the whole sentence, as it will read, with this amendment?

Senator Herrera: "(a) establish policies and standards for the effective, efficient and economical operation x x x" Delete the word "or" here.

The Presiding Officer [Senator Lina]: Is it accepted?

Senator Alvarez: It is accepted, Mr. President.

The Presiding Officer [Senator Lina]: Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Are there any other amendments?

If there are no more amendments on page 4, let us move on to page 5. Is there any amendment on page 5?

Senator Tatad: Mr. President.

The Presiding Officer (Senator Lina): Senator Tatad is recognized.

TATAD AMENDMENT

Senator Tatad: Mr. President, on line 4 after the word "Secretaries" I propose the deletion of the word "who", and in lieu thereof, I propose the insertion of the following: After "Secretaries" comma, ONE FOR ENERGY POLICY, PLANNING AND MONITORING, AND ANOTHER FOR ENERGY STAFF SUPPORT SERVICES. And the word "both".

The entire paragraph will read as follows: "The Secretary shall also be assisted by two (2) Assistant Secretaries, ONE, FOR ENERGY POLICY, PLANNING AND MONITORING AND ANOTHER, FOR ENERGY STAFF SUPPORT SERVICES. BOTH SHALL BE APPOINTED BY THE PRESIDENT UPON THE RECOMMENDATION OF THE SECRETARY."

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: It is accepted, Mr. President.

The Presiding Officer [Senator Lina]: Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Are there any other amendments?

Senator Maceda: Mr. President.

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

Senator Maceda: On lines 9 and 10, it seems to me there is a problem of style here. "The Assistant Secretary, et cetera, which shall consist of the Energy Supply Development Division, et cetera." I do not think that the Assistant Secretary shall be consisting of several divisions.

Senator Alvarez: When we reach this portion, we are going to propose, Mr. President, to delete "which shall consist of the Energy Supply Development Division, the Energy Demand Management Division, et cetera." We will just directly go into the functions of the Assistant Secretary.

The Presiding Officer [Senator Lina]: Is the Gentleman proposing the deletion of the phrase "after monitoring", and then go direct to the phrase: "shall have the following duties and responsibilities?"

Senator Alvarez: Yes, "shall have the following duties and responsibilities."

That is correct, Mr. President.

The Presiding Officer [Senator Lina]: So beginning with the word "which", ending with the word "division," are all deleted. And that the Section will read:

"The Assistant Secretary for Energy Policy, Program, Planning and Monitoring. The Assistant Secretary for Energy Policy, Program, Planning and Monitoring shall have the following duties and responsibilities:"

Is that the amendment, Senator Alvarez, as pointed out by Senator Maceda?

Senator Alvarez: Yes, Mr. President.

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

The attention of the Chair has been called on letter (e) of page 4, on the period with which the Congress will study and recommend proposals for the deregulation of appropriate activities of the energy industry.

The Chair is informed that the compromise agreement yesterday talked of a period of four years. In the present draft, it is still five years.

Senator Alvarez: Mr. President, that was an oversight. This has already been incorporated under Section 4, subsection (d), so that we will now delete...

The Presiding Officer [Senator Lina]: Instead of five years, FOUR (4) YEARS, on page 4, line 24.

Senator Alvarez: Yes, for four years.

Senator Angara: Mr. President.

The Presiding Officer [Senator Lina]: Senator Angara is recognized.

Senator Angara: Mr. President, this particular provision is already deleted because it is already incorporated in the compromise provision that we approved last night. That was the clear understanding.

The Presiding Officer [Senator Lina]: Is the Gentleman saying that there is no more need for letter (e)?

Senator Angara: Yes, to maintain this present provision under this section.

The Presiding Officer [Senator Lina]: But we have not yet done so.

What does the Sponsor say?

Senator Alvarez: We have no objection to deleting this portion.

Senator Maceda: Mr. President.

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

Senator Maceda: I would just like to clarify that I do not mean to extend the debate, except to point out that in the amendment that we approved, first of all, the concept was, the Secretary may institute certain measures within his competence and jurisdiction at his level; secondly, that he has to submit some of them to the President. But just like in so many other bills, there may be a need to submit proposals to Congress. I think that is the essence of this particular section.

The amendment that was approved does not talk of submitting appropriate proposals to Congress. That is an entirely different matter, Mr. President.

The Presiding Officer [Senator Lina]: What does the

Sponsor say?

Senator Alvarez: Mr. President, this matter "to Congress" was embodied in the compromise agreement because the Gentleman from Quezon felt that submitting it to Congress would go through the legislative mill and would take much longer to implement.

The Presiding Officer [Senator Lina]: Senator Maceda, there seems to be a difference of perception.

Senator Maceda: There will be certain proposals that neither the Secretary nor the President can do on their own. If it involves the amendment of an existing law, or if there is something new that comes up that requires legislative enactment, then the Secretary should recommend the same to Congress.

Senator Alvarez: This particular provision where we mandated a time frame was for deregulation. Indeed, Mr. President, if there will be any need for legislation, then it goes without saying that in the framework of Government, it will have to be submitted to Congress. We have no objection if any one will propose that, but I think it will be a restatement of our constitutional order.

Senator Angara: Mr. President.

The Presiding Officer [Senator Lina]: Senator Angara is recognized.

Senator Angara: Mr. President, it is true that if the deregulation depends on the repeal of new legislation, then the Secretary must request Congress for that legislation or repeal. Originally, Mr. President, as worded, this provision tied deregulation to congressional request, and we said that that is no longer what we want because there may be deregulation that does not depend on legislative enactment which the Secretary should be able to do. Thus, the compromise that was agreed upon last night required that this subsequent provision should no longer be in the draft.

That was the clear understanding, Mr. President. If the Secretary needs legislation, he may do so, but we need not state that here.

The Presiding Officer [Senator Lina]: The period is immaterial.

Senator Angara: The period is immaterial.

The Presiding Officer [Senator Lina]: He can go to

Congress within the year, within the second year, within the third year.

Senator Angara: Yes, Mr. President.

So maintaining this present provision will give the false and erroneous impression that we are tying deregulation to legislative request.

The Presiding Officer [Senator Lina]: Is Senator Angara moving to delete letter (e)?

Senator Alvarez: No, Mr. President. I think the proposal on the Floor was to delete the original subsection (d).

The Presiding Officer [Senator Lina]: Five years.

Senator Alvarez: The entire...

The Presiding Officer [Senator Lina]: Yes, to delete, that is what I said. To delete the entire subsection (e).

Senator Alvarez: --(d).

The Presiding Officer [Senator Lina]: No. It is now (e).

Senator Alvarez: Now (e), yes. But to delete that whole subsection, because it has already been incorporated into subsection (d) of Section 4.

The Presiding Officer [Senator Lina]: Is there any objection to the deletion of subsection (e)? [Silence] Hearing none, the deletion is approved.

We are now on page 5. Any anterior amendment?

Senator Alvarez: Page 5, if there is no anterior amendment.

Senator Maceda: Mr. President.

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

MACEDA AMENDMENT

Senator Maceda: On line 18, just for purposes of focus, after the word "economy" insert a comma and add the word POVERTY.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: The amendment is accepted, Mr. President.

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

Senator Alvarez: Anterior amendment, Mr. President, on line 16. Interchange the word "demand" for "supply", as a matter of style. So it should read: "...on the supply scenarios and demand options..."

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

Page 6. Any amendment on page 6? [Silence] There is no amendment on page 6.

We move to page 7.

Senator Mercado: Mr. President.

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

Senator Mercado: Mr. President, prior to proposing an amendment, I would like to ask a few questions to the Sponsor, if I may.

Senator Alvarez: Yes, Mr. President.

Senator Mercado: Mr. President, I looked at Section 10 which starts on page 7. There is an enumeration of the various bureaus under it.

Senator Alvarez: On what section?

Senator Mercado: I am talking about page 7, Section 10. The bureaus of the Department of Energy. I would like to ask a few questions.

I am aware that one of the biggest problems of the government is a very large bureaucracy; there is a lot of fat, too many bureaus and too many offices. But I believe--as I have expressed previously during the period of interpellations--that one of the areas needing emphasis is energy conservation.

Is there a provision for an office or a bureau? Is it given importance by way of the structure of the Department of Energy on this proposed measure?

Senator Alvarez: On conservation, Mr. President?

Senator Mercado: Yes, Mr. President, energy conservation.

Senator Alvarez: Yes, Mr. President. There are several sections and subsections here.

Senator Mercado: I am speaking of how the bureaucracy is stratified, Mr. President. We can have a general statement about conservation, but the implementation has to be carried out by an office or a bureau of the department. I would like to see this is translated in how the bureaucracy is stratified.

SUSPENSION OF THE SESSION

May I ask for a few minutes suspension of the session, Mr. President?

The Presiding Officer [Senator Lina]: The session is suspended for a few minutes, if there is no objection. [There was none.]

It was 5:51 p.m.

RESUMPTION OF THE SESSION

At 5:57 p.m., the session was resumed.

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

While Senator Mercado is preparing the amendments, can we move to other provisions? We are still on page 7, but we will go back to this page as soon as the amendment to be introduced by Senator Mercado is ready.

Is there any amendment on page 7?

Senator Alvarez: There is no more amendment on page 7.

The Presiding Officer [Senator Lina]: Is there any amendment on page 8?

Senator Alvarez: The Mercado amendment is on page 8.

The Presiding Officer [Senator Lina]: Anterior amendment now. On page 7--

MERCADO AMENDMENT

Senator Mercado: Mr. President, we are proposing that our amendment be incorporated on page 8. This will be on

line 14. We propose another paragraph to read: DEVELOP AND IMPLEMENT A CONTINUING ENERGY CONSERVATION PROGRAM DESIGNED TO OPTIMIZE ENERGY UTILIZATION.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: Will the Gentleman read the whole section, as amended which will be an additional paragraph. We are not changing Section 2.

Senator Mercado: No. We are not changing Section 2. We are adding another paragraph after paragraph 2.

Paragraph 3 will read: DEVELOP AND IMPLEMENT A CONTINUING ENERGY CONSERVATION PROGRAM DESIGNED TO OPTIMIZE ENERGY UTILIZATION. And a subsequent renumbering of the other paragraphs.

Senator Alvarez: It is accepted, Mr. President.

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

Senator Alvarez: So that subsection "3" will now become 4, "4" will become 5, "5" will become 6, and "6" will become 7, Mr. President.

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

Is there any other amendment on page 8? [Silence.]

Is there any other amendment on page 9? Senator Maceda is recognized.

Senator Maceda: No amendment, Mr. President.

The Presiding Officer [Senator Lina]: No amendment on page 9. We are now going to page 10.

Senator Tañada is recognized; and then, Senator Maceda, Senator Shahani, Senator Tolentino, and Senator Guingona.

Senator Tañada: Thank you, Mr. President.

TAÑADA AMENDMENT

On Section 11, line 15, after the word "corporations,"

delete the period and add the following words: UNLESS THE PRESIDENT DIRECTS OTHERWISE.

The reason for this amendment, Mr. President, is that the Secretary may already be overburdened with responsibilities. The President will therefore have the right to decide whether to still appoint him as ex-officio chairman of these different corporations or some other persons.

Senator Alvarez: No objection, Mr. President.

The Presiding Officer [Senator Lina]: The amendment is accepted.

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

Senator Roco: Mr. President.

The Presiding Officer [Senator Lina]: Senator Roco is recognized.

Senator Roco: I am not really objecting, Mr. President, but I do not want to get stuck procedurally with the difficulty of amending this provision because of that approval.

So, may we just have clarity as to what was approved?

The Presiding Officer [Senator Lina]: After the word "corporations..."

Senator Tañada: After the word "corporations", Mr. President, we will add the words UNLESS THE PRESIDENT DIRECTS OTHERWISE.

Senator Roco: Could I have an antecedent amendment then?

Are we referring to line 15?

Senator Tañada: Yes, Mr. President.

The Presiding Officer [Senator Lina]: Yes, on page 10.

Senator Roco: May we have an antecedent amendment, Mr. President, then.

The Presiding Officer [Senator Lina]: On the same sentence?

Senator Roco: Yes, Mr. President.

The Department Secretary shall, in a concurrent capacity, be ex officio chairman of the respective boards. May we propose that instead of the respective boards... We can retain it... Of the respective boards of the NAPOCOR AND THE NEA, so that we exclude the PNO.

The reason for this, Mr. President, and I will ask for a recess after this...

The Presiding Officer [Senator Lina]: Can we approve first the amendment introduced by Senator Tañada?

Senator Roco: That is in the latter portion, Mr. President?

The Presiding Officer [Senator Lina]: Yes. We have already discussed it and accepted by the Sponsor.

The Gentleman's proposal is not in the nature of an objection to the amendment introduced by Senator Tañada.

Senator Roco: Then we will go back on...

The Presiding Officer [Senator Lina]: Yes. We will go back, definitely.

The amendment of Senator Tañada having been accepted by the Sponsor, is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Roco is recognized.

Senator Roco: Mr. President, we were going to recommend an amendment so that the Secretary shall be ex officio chairman only of two boards, the National Power Corporation and the NEA because, as I understand it, in the description in this bill, those in the... Well, basically they are government companies operating...

But in the case of the Philippine National Oil Company, as I understand it, they are the ones managing PETRON, they are the ones selling the PETRON.

We have a secretary now, Mr. President, with supervision and control over all energy projects. He will be chairman of one of the companies that is supposed to be competing freely. And in our declaration of principle, there was suppose to be stressed an encouragement of free competition.

Effectively, Mr. President, nobody, neither SHELL nor CALTEX, can compete freely with PNO. They will always...

be under the gun. What we should do pursuant to the policy statement at the beginning of this bill is to precisely make PNOC compete also as an oil company. Otherwise, we shall have PNOC as an inhibiting factor in free competition, especially if the Chairman is the boss of all energy projects.

So I was wondering, Mr. President, if we can have a one-minute suspension...

Senator Macapagal-Arroyo: Mr. President.

The Presiding Officer [Senator Lina]: Before that, we will recognize Senator Macapagal-Arroyo if it is on the same point.

Senator Macapagal-Arroyo: Yes, Mr. President, although we will probably discuss this during the suspension.

Mr. President, in the first place, I wanted to ask, why is the government in PNOC? Why is there a PNOC?

Senator Roco: If I have my way, Mr. President, it should not be. I think, in the compromise, in the agreements and in the discussions, this seems to have been skirted and sort of reset over a time frame, so I do not want to disturb now the previous agreements. But it is unfair if we set back the climate of free competition or if we allow market forces to enter when the big energy czar heads one of the competing companies.

Senator Macapagal-Arroyo: Mr. President, I can understand the Gentleman's wishing that there were no PNOC and, perhaps, in a totally deregulated environment, there is no place for PNOC. However, I would like to ask the Sponsor of the amendment: Since there is a PNOC, was not PNOC, in fact, conceived to reflect government policy on energy, so that in place of the monopoly power that exists in the two other energy firms, the idea is that the government can undertake leadership in pricing and in other activities so that the other two giants will have to follow suit if they want to compete?

The reason why I am asking this is, if that is the reason for the existence of PNOC at this time--even though we may argue that eventually it should not be there--then it is even more important that the Chairman of the Board be the Secretary of Energy because then he will impose government policy on the PNOC rather than make PNOC remain as a profit-oriented enterprise going its way.

SUSPENSION OF THE SESSION

The Presiding Officer [Senator Lina]: There is a request for a suspension of the session. The session is suspended, if

there is no objection. [*There was none.*]

It was 6:08 p.m.

RESUMPTION OF THE SESSION

At 6:18 p.m., the session was resumed.

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

Senator Roco is recognized.

Senator Roco: The Lady from Pampanga has an anterior amendment, Mr. President.

The Presiding Officer [Senator Lina]: Senator Macapagal-Arroyo is recognized.

MACAPAGAL-ARROYO AMENDMENT

Senator Macapagal-Arroyo: Mr. President, on lines 9 to 12, I propose to delete the phrase that begins with the word "are" on line 9 until the end of the sentence on page 10, and to substitute the phrase SHALL BE UNDER THE SUPERVISION AND CONTROL OF THE DEPARTMENT.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: It is accepted, Mr. President.

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

ROCO AMENDMENT

Senator Roco: As a consequence of the amendment, Mr. President, may we now propose an amendment to line 14, so that after "respective boards of" we add the names: "NAPCOR", well, NATIONAL POWER CORPORATION (NPC) AND NEA since they are defined terms.

The Presiding Officer [Senator Lina]: Just the acronyms because they have already been spelled out.

Senator Roco: Yes, Mr. President. "respective boards of NPC AND NEA UNLESS OTHERWISE DECIDED BY THE PRESIDENT".

The Presiding Officer [Senator Lina]: Yes, with the

amendment of Senator Tafiada which has already been approved.

Senator Roco: Yes, thank you, Mr. President.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: It is accepted, Mr. President.

The President Officer [Senator Lina]: The amendment is accepted. Is there any objection?

Senator Maceda: Mr. President.

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

Senator Maceda: Mr. President, just to clarify the combined effect of the two amendments of Senators Macapagal-Arroyo and Roco is to remove the Secretary of Energy as ex officio Chairman of PNOC but PNOC is still retained as an office under his supervision and control.

Senator Roco: Yes. The original agreement I think, Mr. President, in the earlier portions of this bill was that the Secretary, in any event, has supervision and control over all energy projects and activities.

Senator Maceda: I just wanted to clarify that.

The Presiding Officer [Senator Lina]: All right. The amendment introduced by Senator Roco is accepted by the Sponsor. Is there any objection? [Silence] Hearing none, the amendment is approved.

SUSPENSION OF THE SESSION

Senator Roco: May we have a one-minute suspension, Mr. President?

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

It was 6:20 p.m.

RESUMPTION OF THE SESSION

At 6:23 p.m., the session was resumed.

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

Senator Roco is recognized.

Senator Roco: Mr. President, under Section 12, on line 22, may we...

Senator Tatad: Mr. President, just an anterior amendment.

The Presiding Officer [Senator Lina]: Senator Tatad is recognized.

Senator Tatad: Mr. President, I am trying to understand the paragraph that begins on line 16 and ends on line 18, "The Secretary may reorganize, revamp and recommend the members of the Board of Directors of the PNOC, NPC and NEA who shall be appointed by the President".

What does this mean? The Secretary may reorganize, revamp. Is "revamp" now a legitimate word that should appear in the law? But whatever it means, how can this be reconciled with the Secretary simply recommending to the President who should be in the board of these agencies?

Senator Alvarez: We have a proposed amendment for this to clarify this Section, Mr. President.

The Presiding Officer [Senator Lina]: May we have the amendment that may clarify the point raised by Senator Tatad?

TATAD AMENDMENT

Senator Tatad: Mr. President, if all that the Secretary can do is recommend to the President the members of the Board, then I would like to propose an amendment.

In lieu of the paragraph here appearing, I should like to propose the following text: THE SECRETARY MAY AT ANY TIME RECOMMEND THE REORGANIZATION OF THE BOARD OF DIRECTORS OF THE PNOC, NPC AND NEA WHO SHALL BE APPOINTED BY THE PRESIDENT. Is that acceptable?

Senator Alvarez: It is accepted, but subject to style.

The Presiding Officer [Senator Lina]: Will the Senator from Catanduanes restate the amendment?

Senator Tatad: THE SECRETARY MAY AT ANY TIME RECOMMEND THE REORGANIZATION OF THE BOARD OF DIRECTORS OF THE PNOC, NPC, AND NEA WHO SHALL BE APPOINTED BY THE PRESIDENT.

Senator Alvarez: It is accepted, Mr. President.

Senator Tatad: Thank you very much, Mr. President.

Senator Maceda: Mr. President.

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

MACEDA AMENDMENT

Senator Maceda: The proposed amendment, while it is clearer, in effect, reduces the authority of the Secretary.

I was wondering whether the Sponsor of the amendment and the Sponsor of the bill will consider an amendment along this line: THE SECRETARY MAY REORGANIZE THE BOARD OF DIRECTORS OF THE PNOC, NPC, AND NEA, INCLUDING RECOMMENDING TO THE PRESIDENT THE CHANGE OR REPLACEMENT OF ANY INCUMBENT MEMBERS OF THE BOARD.

Senator Tatad: My point, Mr. President, is that, if the power to hire belongs to the President, then he must also enjoy the right to fire. Now, if we give to the Secretary the right to fire, then we must give to him the right to hire.

Senator Maceda: We are talking about two different things, Mr. President. I agree with the statements just made. There is also a bureaucracy in the board in which I think the Secretary should have the right to reorganize, other than the members of the board itself. That is what I am trying to retain.

Senator Tatad: Provided that is the meaning, I have no objection. Subject to refinement of style, I think that can be accepted.

Senator Maceda: There are really two concepts. One, that the Secretary may reorganize the office of the Board of Directors. Now, if he feels that the members of the board should be changed, then he may recommend that to the President.

Senator Alvarez: Will the Gentleman restate the proposed amendment for clarity.

Senator Maceda: THE SECRETARY MAY REORGANIZE THE OFFICES OF THE BOARD OF DIRECTORS PROVIDED, HOWEVER, THAT SHOULD HE CONSIDER A CHANGE IN THE PRESENT MEMBERSHIP OF THE BOARD NECESSARY, SHALL RECOMMEND THE SAME TO THE PRESIDENT FOR ACTION, or for whatever it is--

subject to style.

The Presiding Officer [Senator Lina]: What does the Sponsor of the original amendment say?

Senator Tatad: Mr. President, subject to refinement of style, the idea is acceptable.

Senator Alvarez: We are just articulating that these are the three agencies.

The Presiding Officer [Senator Lina]: Yes, PNOC, NPC and NEA.

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

Senator Guingona: Line 20, Mr. President.

The Presiding Officer [Senator Lina]: Any anterior amendment? [Silence] There being none, Senator Guingona is recognized.

GUINGONA AMENDMENT

Senator Guingona: This proposed amendment, Mr. President, will retain the first sentence, and propose an amendment by deletion of the others in the first paragraph. So that the proposed amendment on line 20 will read as follows:

“Energy Regulatory Board. - The quasi-judicial powers and regulatory functions with respect to energy pricing and regulations shall be exercised through the Energy Regulatory Board.” And add: THE POWER OF THE NATIONAL POWER CORPORATION UNDER SECTION 4 OF REPUBLIC ACT 6395, AS AMENDED, TO DETERMINE, FIX AND PRESCRIBE THE RATES BEING CHARGED TO ITS CUSTOMERS, AS WELL AS THE POWER OF ELECTRIC COOPERATIVES UNDER CHAPTER II, SECTION 16 (O) OF PRESIDENTIAL DECREE NO. 269, AS AMENDED, TO FIX RATES ARE HEREBY TRANSFERRED TO THE ENERGY REGULATORY BOARD.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: The amendment, in effect, consists of removing the powers for pricing from the National Power Corporation and the National Electrification Administration, and putting these within the quasi-judicial powers of the Energy Regulatory Board. The amendment is accepted, Mr. President.

Senator Roco: Mr. President.

resumed.

The Presiding Officer [Senator Lina]: Senator Roco is recognized.

Senator Roco: Could the Gentleman please read the amendment?

Senator Guingona: Yes. The entire amendment will read as follows:

“The quasi-judicial powers and regulatory functions with respect to energy pricing and regulations shall be exercised through the Energy Regulatory Board.”

“THE POWER OF THE NATIONAL POWER CORPORATION UNDER SECTION 4 OF REPUBLIC ACT 6395, AS AMENDED, TO DETERMINE, FIX AND PRESCRIBE THE RATES BEING CHARGED TO ITS CUSTOMERS, AS WELL AS THE POWER OF ELECTRIC COOPERATIVES UNDER CHAPTER II, SECTION 16 (O) OF PRESIDENTIAL DECREE NO. 269, AS AMENDED, TO FIX RATES ARE HEREBY TRANSFERRED TO THE ENERGY REGULATORY BOARD.”

The Presiding Officer [Senator Lina]: Senator Roco is recognized.

ROCO AMENDMENT

Senator Roco: Yes. I have a small amendment, if the Gentleman will accept. That when we refer to NEA, may we add a qualifying phrase which says that the NEA, subject to style, ONE OF WHOSE BOARD MEMBERS SHALL REPRESENT THE ELECTRIC COOPERATIVES. But I am not sure of what is being referred to when the Gentleman mentioned the presidential decree.

SUSPENSION OF THE SESSION

Can we have a one-minute suspension, Mr. President?

The Presiding Officer [Senator Lina]: The session is suspended for one minute.

It was 6:34 p.m.

RESUMPTION OF THE SESSION

At 6:34 p.m., the session was resumed.

The Presiding Officer [Senator Lina]: The session is

ROCO AMENDMENT

Senator Roco: As read, Mr. President, after the name “NEA,” we propose to the Gentleman a qualifying phrase which says: ONE OF WHOSE BOARD MEMBERS SHALL REPRESENT THE RURAL ELECTRIC COOPERATIVES, and it continues the way it was read by the Gentleman.

Senator Guingona: We accept that, Mr. President, except that it should be placed in a...

Senator Roco: Yes, there will be a transposition.

Senator Guingona: Yes.

Senator Roco: But just for the concept, Mr. President, we will have to break up the sentence into, probably, three.

Senator Guingona: Yes.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: Will the Gentleman restate the amendment for more clarity?

Senator Guingona: The distinguished Gentleman from Bicol was proposing another amendment of representation in the NEA. We accept that as a concept but, perhaps, it should be placed in a separate paragraph.

Senator Roco: Yes, we may place it after the amendment, then we just transpose line 22 to line 24, and this becomes a separate sentence, Mr. President.

Senator Guingona: How will it read?

Senator Roco: It will read:

“...electric cooperatives shall continue to be under the regulatory and supervisory authority of the NEA, ONE OF WHOSE BOARD MEMBERS SHALL REPRESENT THE RURAL ELECTRIC COOPERATIVES.”

The Presiding Officer [Senator Lina]: But that has already been transposed.

Senator Roco: No, no. That is why we are just transferring.

The Presiding Officer [Senator Lina]: The original amendment of Senator Guingona transfers the...

Senator Guingona: The price fixing of NAPOCOR and NEA to the Energy Regulatory Board.

The Presiding Officer [Senator Lina]: That is why the amendment of Senator Roco will not fit on that line.

Senator Guingona: So if the distinguished Gentleman will...

The Presiding Officer [Senator Lina]: Maybe, it can be introduced in another paragraph somewhere.

Senator Roco: But what happened to the phrase "Electric cooperatives shall be under the regulatory and supervisory authority of the NEA"?

Senator Guingona: It was transferred to the ERB, as far as the price fixing is concerned. The price fixing in the NEA, under the proposal, will be transferred to the ERB. So it does not have anything to do with the composition as well.

SUSPENSION OF THE SESSION

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

It was 6:37 p.m.

RESUMPTION OF THE SESSION

At 6:39 p.m., the session was resumed.

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

Senator Roco: Mr. President, after the explanation of the Minority Leader and the Sponsor, I withdraw the proposed amendment to the amendment.

Thank you, Mr. President.

The Presiding Officer [Senator Lina]: Will the Minority Leader restate the amendment?

GUINGONA AMENDMENTS

Senator Guingona: THE QUASI-JUDICIAL POWERS AND REGULATORY FUNCTIONS WITH RESPECT TO

ENERGY PRICING AND REGULATIONS SHALL BE EXERCISED THROUGH THE ENERGY REGULATORY BOARD. THE POWER OF THE NATIONAL POWER CORPORATION UNDER SECTION 4 OF REPUBLIC ACT NO. 6395, AS AMENDED, TO DETERMINE, FIX AND PRESCRIBE THE RATES BEING CHARGED TO ITS CUSTOMERS, AS WELL AS THE POWER OF ELECTRIC COOPERATIVES UNDER CHAPTER II, SECTION 16(O) OF PRESIDENTIAL DECREE 269, AS AMENDED, TO FIX RATES, ARE HEREBY TRANSFERRED TO THE ENERGY REGULATORY BOARD.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: It is accepted, Mr. President.

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

Senator Guingona: Mr. President, there is another proposed paragraph:

THE STAFF OF THE BOARD WHICH SHALL INCLUDE AN EXECUTIVE DIRECTOR AS PROVIDED UNDER SECTION 2 OF EXECUTIVE ORDER NO 172 SHALL BE COMPOSED OF THE OFFICE OF THE DEPUTY EXECUTIVE DIRECTOR, OFFICE OF LEGAL AFFAIRS, OFFICE OF ELECTRIC POWER RATE-FIXING COOPERATIVES, OFFICE OF PETROLEUM AND OTHER ENERGY SOURCES PRICING AND ENFORCEMENT, THE FINANCIAL AND MANAGEMENT SERVICES AND THE OFFICE OF AUDIT AND INVESTIGATION WHICH SHALL BE DIRECTLY UNDER THE CHAIRMAN AND THE BOARD MEMBERS.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: I have some reservations about the investigative division, Mr. President. This has been a cause of some complaints when field officers are pursuing certain cases, and it has tarnished the reputation of the Energy Regulatory Board.

The Presiding Officer [Senator Lina]: Is the Sponsor rejecting the amendment?

Senator Alvarez: The last portion on the investigative division, Mr. President.

The Presiding Officer [Senator Lina]: Considering that

the amendment is long and substantial, can we have that ...

Senator Guingona: We will just delete that portion, Mr. President.

Senator Alvarez: Delete that portion and then I will accept the amendment, Mr. President.

The Presiding Officer [Senator Lina]: If that is deleted, how will the amendment now read?

Senator Guingona: THE STAFF OF THE BOARD WHICH SHALL INCLUDE AN EXECUTIVE DIRECTOR AS PROVIDED FOR UNDER SECTION 2 OF EXECUTIVE ORDER NO. 172 SHALL BE COMPOSED OF THE OFFICE OF THE DEPUTY EXECUTIVE DIRECTOR, OFFICE OF LEGAL AFFAIRS, OFFICE OF ELECTRIC POWER RATE-FIXING COOPERATIVES, OFFICE OF ELECTRIC POWER RATE-FIXING NPC PRIVATE UTILITIES, OFFICE OF PETROLEUM FINANCIAL AND MANAGEMENT SERVICES, AND THE OFFICE OF AUDIT WHICH SHALL BE DIRECTLY UNDER THE CHAIRMAN AND THE BOARD MEMBERS.

Senator Alvarez: May I reiterate, Mr. President: The Chairman, the Executive Director, the Deputy Executive Director, Office of Legal Affairs, Office of Petroleum, Coal, Pipeline Rate-fixing, Office of Electric Power Rate-fixing for Cooperatives, Office of Electric Power Rate-fixing NPC and Private Utilities, but without the Office of Audit and Investigation which is a field office.

Senator Guingona: If that is the feeling of the Sponsor, Mr. President, we will have to remove that.

The Presiding Officer [Senator Lina]: Is the amendment accepted by the Sponsor?

Senator Alvarez: It is accepted, without the Office of Audit and Investigation, Mr. President.

The Presiding Officer [Senator Lina]: With the amendment to the amendment, is there any objection?

Senator Guingona: Mr. President, if the Sponsor will bear with us. In determining prices, the audit is an essential feature, because they have to determine how much is the rate base, how much are the net assets of NAPOCOR. They cannot do that without proper auditing.

So, therefore, if the Sponsor will remove, would like to remove the investigation, it is all right, as long as ...

Senator Alvarez: Yes, Mr. President, I will yield. Delete the investigation team.

The Presiding Officer [Senator Lina]: All right. Audit is retained. Amendment having been accepted, is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Guingona: Mr. President, I would just like to state that these amendments were presented/proposed by Senator Ople and this Representation.

The Presiding Officer [Senator Lina]: It is noted.

Senator Maceda: Mr. President.

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

Senator Maceda: Mr. President, on lines 30 and 31, after "Secretary" remove the period and add this proviso.

Senator Tañada: I have an anterior amendment, Mr. President.

Senator Alvarez: Which page is this, Mr. President?

The Presiding Officer [Senator Lina]: There is an anterior amendment which Senator Tañada wants to introduce on page 10.

TAÑADA AMENDMENT

Senator Tañada: On page 10, Mr. President.

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

Senator Tañada: After the word "its" appearing on line 26.

Senator Alvarez: On line 26?

Senator Tañada: Yes, after the word "its" appearing on line 26, delete the word "respective" on line 27 before the word "functions". A matter of style, Mr. President.

Senator Alvarez: It is accepted, Mr. President.

The Presiding Officer [Senator Lina]: Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Maceda is recognized.

MACEDA AMENDMENT

Senator Maceda: On line 31 at the end thereof, delete the period and add the following proviso: "*PROVIDED, HOWEVER, THAT ONE MEMBER OF THE BOARD SHALL BE RECOMMENDED BY LABOR GROUPS AND ANOTHER MEMBER OF THE BOARD SHALL BE RECOMMENDED BY CONSUMER ASSOCIATIONS.*"

Senator Alvarez: So that it will read *in toto* as...

Senator Maceda: This is a joint amendment with Senator Mercado.

THE CHAIRMAN AND MEMBERS OF THE BOARD SHALL BE APPOINTED BY THE PRESIDENT UPON THE RECOMMENDATION OF THE SECRETARY, *PROVIDED, HOWEVER, THAT ONE MEMBER OF THE BOARD SHALL BE RECOMMENDED BY LABOR GROUPS AND ANOTHER MEMBER OF THE BOARD SHALL BE RECOMMENDED BY CONSUMER ASSOCIATIONS.*

Senator Alvarez: It is accepted, Mr. President.

The Presiding Officer [Senator Lina]: Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Herrera: Mr. President.

The Presiding Officer [Senator Lina]: Senator Herrera is recognized.

Senator Herrera: I would just like to put into the record that I would like to thank Senator Maceda and Senator Mercado. I think they are doing a great service to labor and the consumers group. Thank you, Mr. President.

The Presiding Officer [Senator Lina]: The manifestation of Senator Herrera is noted.

Senator Tatad: Mr. President.

The Presiding Officer [Senator Lina]: Senator Tatad is recognized.

Senator Tatad: Mr. President, on Section 13, I should like to ask a clarificatory question.

Senator Mercado: I have an anterior amendment, Mr.

President.

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

MERCADO AMENDMENT

Senator Mercado: On page 11, just a matter of style, I move for the deletion of the word "but" on line 2. Put a period after the word "Board" and the word "the" shall be capitalized. And between the words "shall" and "be", the word *HOWEVER* will be inserted.

So that the paragraph will read now: "THE SECRETARY SHALL EXERCISE ADMINISTRATIVE SUPERVISION OVER THE BOARD. THE DECISIONS OF THE BOARD SHALL, HOWEVER, BE APPEALABLE TO THE SUPREME COURT."

The Presiding Officer [Senator Lina]: What does the Sponsor say? It is just a matter of style.

Senator Alvarez: Mr. President, I am not too clarified. How is the amendment situated?

The Presiding Officer [Senator Lina]: After the word "Board," it is period. Then, THE DECISIONS OF THE BOARD SHALL, HOWEVER, BE APPEALABLE TO THE SUPREME COURT.

It is just a matter of style.

Senator Alvarez: It is accepted, Mr. President.

The Presiding Officer [Senator Lina]: Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Maceda: Is Senator Tatad's amendment an anterior one?

Senator Tatad: I am proposing an amendment on line 4. So Senator Maceda's is an anterior amendment.

The Presiding Officer [Senator Lina]: Then, we will hear Senator Maceda first.

MACEDA MENDMENT

Senator Maceda: I would like to add a proviso removing the period after line 3: "*PROVIDED, HOWEVER, THAT ANY DECISION TO REDUCE PRICES OR RATES SHALL*"

BE IMMEDIATELY EXECUTORY PENDING APPEAL.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: That is accepted, Mr. President.

Senator Maceda: To reduce prices or rates.

The Presiding Officer [Senator Lina]: Decisions to reduce prices or rates.

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

Senator Tatad: Mr. President.

The Presiding Officer [Senator Lina]: Senator Tatad is recognized.

Senator Tatad: Mr. President, may I ask a clarificatory question before I propose any amendment?

Mr. President, Section 13 creates a council of advisers on energy affairs. I suppose this is what it means by Council of Energy Advisers.

I should like to ask the distinguished Sponsor why there seems to be no place for the Secretary in this council. What is the policy direction?

The Secretary is supposed to be the alter ego of the President on energy matter. This law would create a council made up of people from the private sector excluding the participation of the Secretary. Would this law not be creating two advisory councils, one exclusive of the other? Or would the Sponsor be amenable to making the Secretary part of this council, in fact, making him, probably, chairman of the council while all the other members would be coming from the private sector?

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: Mr. President, this is in consonance with the growing concept that more and more the voice from the private sector should be heard and felt, that they should make their input.

We were mulling over the recommendation of the Gentleman from Bicol when we were crafting this particular provision. But if we should include the Secretary as Presiding

Officer, then this will practically make the council into a quasi government bureaucracy when the intention really is to get an independent advice, a fresh view from the private sector.

Senator Tatad: The fact, Mr. President, that this is being created by law brings in government into the picture. If the intention is to avail of the expertise of the private sector, the President should be free to reach out to the private sector without the need of creating a council by law.

Senator Alvarez: Yes, Mr. President, we are creating it in order to give it an access to the presidency, an office so preoccupied with many complex of affairs on a day-to-day basis. But if we allow this door of communication and we provide that they are going to be the balanced representatives of the private sector organized by the private sectors themselves, then the energy policy, which we have mandated to proceed with step-by-step or face deregulation after a period of time, will really be enriched with the participation of the private sector.

The fact that we are opening this by law, since we are not making them part of the regular bureaucracy does not, in fact, divest them of the character of their duties and functions as representatives of the private sector. And this is the spirit and the intention in which this particular provision has been opened up in this bill.

Senator Tatad: Mr. President, how do we operationalize the setup? We have a Council of Energy Advisers, all from the private sector. We have a Secretary of Energy that has nothing to do with this council. The President calls in the council for advise. Does it mean to say that he meets this council without the Secretary?

It will be like the President meeting with ambassadors without the Minister of Foreign Affairs; meeting with the farmers without the Secretary of Agriculture. How does this work? Will he listen to the Secretary in the morning, call in the council in the afternoon for a second opinion? Or, would it be cutting time, reducing wastage if he brought in the Secretary and the council together in order to listen to what has to be said on energy issues?

Senator Alvarez: Mr. President, perhaps, the underlying assumption here is that the President will use the council of the private sector wisely. And as President, he will take the appropriate time and perhaps, create the opportunity so that he will be in dialogue with the private sector advisers who can help him craft appropriate policies. And since the Secretary is his alter ego on energy affairs, most likely, the President might ask the Secretary to sit down with him when the council

convenes to advise him.

The Presiding Officer [Senator Lina]: Is the idea to secure a second opinion?

Senator Alvarez: Yes, Mr. President, to get a second opinion officially and directly from people who are organized to represent the opinion from the target sector of the community.

The Presiding Officer [Senator Lina]: The issues have been joined with the exchange...

Senator Tatad: Mr. President, just one small remark probably to convince the Sponsor.

The Presiding Officer [Senator Lina]: Yes.

Senator Tatad: Let us remember that the setup is being proposed to the President. This is not coming from the President. But if this is the thing that comes to him, he will be saddled with this reality.

He has a council from which the Secretary is completely excluded, and that is supposed to give the second opinion.

But is it necessary for the second opinion to be given without the presence of the Secretary? And if it can be given with the presence of the Secretary, why not then include the Secretary in the council?

Senator Alvarez: Mr. President, there is really no harm in having the Secretary. I will assume that in the normal course of the exercise of presidential decision-making, he will bring in a Secretary. Unless the Secretary has lost the confidence of the President and for that reason he should not really be brought in, he should be removed. But if we are going to make the Secretary, first, the Chairman of the board, the Secretary as the leader now of the private sector will stamp the quality or the nature of the recommendation with the viewpoint of the bureaucracy. And he himself may be funnelling information according to his viewpoint and depriving the presidency or the private sector advisers, which is what would we would like to create here, open a window for private sector council, so that the presence of the Secretary as the leader of the private sector council on energy would diminish our effort to bring in private sector input. That is why we have not embedded the presence of the Secretary of Energy here, Mr. President.

Senator Tatad: Mr. President, in that case, I will not insist on my proposed amendment, but I should like to propose

an amendment, purely on a matter of style.

Lines 5 to 7, after the word "members", on line 5, I propose the deletion of the words "with balanced representation from the major sectors of private industry," and in lieu thereof, I propose the insertion of the words WHO SHALL BE APPOINTED FROM THE PRIVATE SECTOR for reasons of economy and precision, Mr. President.

The Presiding Officer [Senator Lina]: How will the paragraph read?

Senator Tatad: May I ask for a reconsideration, Mr. President.

The Presiding Officer [Senator Lina]: Yes.

TATAD AMENDMENTS

Senator Tatad: I should like to propose an amendment. In lieu of "Energy Advisers", I think we should say: COUNCIL OF ADVISERS ON ENERGY AFFAIRS, if that is acceptable. That is the title of the section on line 4.

The Presiding Officer [Senator Lina]: "Council of Advisers ON ENERGY AFFAIRS", in lieu of "Council of Energy Advisers."

Senator Alvarez: It is accepted, Mr. President.

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

Senator Tatad: The next amendment, Mr. President, would read: "A COUNCIL OF ADVISERS ON ENERGY AFFAIRS, CONSISTING OF FIVE (5) MEMBERS AND APPOINTED FROM THE PRIVATE SECTOR, shall advise the President on the over-all energy program", et cetera.

The Presiding Officer [Senator Lina]: It is a matter of style. What does the Sponsor say?

Senator Alvarez: I am missing a concept here on the representation, Mr. President. So that as much as possible, the ones appointed would disperse an area from the private sector.

Senator Tatad: Mr. President, the phrase "balanced representation" does not present a precise meaning. And I do not know what "major sectors" means.

The private sector is one sector. It should be composed of

lesser units, and the word "sector" may not apply. If we say "sectors of the private industry", and then we divide industry into several sectors, what happens to the non-industrial sector?

I think the private sector is a broader universe, Mr. President. After all, it is up to the President to make sure that almost every area of the private sector can be accommodated within the five to be represented.

Senator Macapagal-Arroyo: Mr. President.

The Presiding Officer [Senator Lina]: We have not yet approved the amendment on the Floor. What does the Sponsor say on that particular amendment?

Senator Alvarez: I would like to hear the Lady from Pampanga, Mr. President. Maybe she could clarify this.

The Presiding Officer [Senator Lina]: Yes, this will be amendment to the amendment.

Senator Macapagal-Arroyo is recognized.

Senator Macapagal-Arroyo: Yes, Mr. President. In fact, I also share the view of the Author of the bill that if we just spell out "private sector", we are not identifying who we would like specifically to be the advisers of the President.

I have a feeling that the Council of Energy Advisers is the institutionalization of the trisectoral advisory body that has, in fact, been advising our leaders on energy policies. And this has been made up of government institutions, of course, plus members of the industry and the labor sector.

If I understand correctly, therefore, I was going to propose that we add to Senator Tatad's amendment--and this may comply with the reservations of Senator Alvarez, when he says "the private sector", we can include another phrase that will specify that the members of the private sector should come from industry, labor and the consumer groups.

The Presiding Officer [Senator Lina]: What does Senator Tatad say?

Senator Tatad: May we ask the distinguished Senator to kindly repeat.

Senator Macapagal-Arroyo: I am giving the concept, because as it is, we have not yet identified the phraseology. But if the distinguished Gentleman from Catanduanes will repeat the phrase, then I can also phrase my amendment in the form of another phrase.

The Presiding Officer [Senator Lina]: Consumer, industry and labor.

Senator Tatad: It is accepted, subject to refinement of style.

The Presiding Officer [Senator Lina]: What does the Sponsor of the bill say?

Senator Alvarez: It is accepted, Mr. President.

Senator Tatad: Thank you.

The Presiding Officer [Senator Lina]: The amendment is accepted. Is there any objection? [Silence] There being none, the amendment is approved, subject to refinement of style.

Is there any other amendment on page 11?

Senator Aquino: Clarification, Mr. President.

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

Senator Aquino: Is the Secretary not included in this Council of Advisers?

Senator Alvarez: No, Mr. President.

Senator Aquino: Thank you.

The Presiding Officer [Senator Lina]: Is there any other amendment on page 11?

Senator Tatad: Mr. President.

The Presiding Officer [Senator Lina]: Senator Tatad is recognized.

TATAD AMENDMENT

Senator Tatad: Mr. President, Section 15, may I just propose a slight transposition. Section 15 says: "In the formulation of implementing rules and regulations for the financing, construction, operation and maintenance of infrastructure projects by the private sector, otherwise known as Republic Act No. 6957, the BOT Law, the Secretary shall be a Member of the Body authorized to formulate and prescribe the necessary guidelines".

I think this can be reconstructed in a more direct manner.

We can say: THE SECRETARY SHALL ALSO BE A MEMBER OF THE BODY AUTHORIZED TO FORMULATE AND PRESCRIBE THE NECESSARY GUIDELINES FOR THE FINANCING, CONSTRUCTION, OPERATION, MAINTENANCE OF THE INFRASTRUCTURE PROJECTS BY THE PRIVATE SECTOR UNDER REPUBLIC ACT NO. 6957, OTHERWISE KNOWN AS THE 'BUILD, OPERATE AND TRANSFER LAW'.

I propose that that be the amendment.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: It is accepted, Mr. President.

Senator Tatad: Thank you, Mr. President.

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

Page 12-- Senator Tatad is recognized.

Senator Tatad: Before page 12, on Section 16, lines 27 to 29, page 11, may I know from the distinguished Sponsor what he means by the following: "The Office of Energy Affairs and the Energy Coordinating Council, shall be abolished pursuant to the provisions of this Act."

When are they going to be abolished? Is there a time frame? Or, are they being abolished with the passage of this Act?

Senator Alvarez: Pursuant to the provisions, because we are transferring manpower and assets. So that as soon as the transfer would have been effected, then they themselves will be abolished.

Senator Tatad: Mr. President, I suppose the transfer will be effected as a consequence of the abolition. The abolition does not take place because the functions have been transferred. So, we can say they are abolished under this Act.

So instead of saying "shall be abolished pursuant to the provisions of this Act", we can say: "The Office of Energy Affairs and the Energy Coordinating Council ARE HEREBY ABOLISHED."

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: The details are spelled out in Section 18, Mr. President.

The Presiding Officer [Senator Lina]: Section 18.

Senator Tatad: If we insist on "shall be", that refers to a future occurrence and supposed to be defined.

Senator Alvarez: There are nuances which we would like to observe so that it is not going to be a drastic abolition as such but according to the strictures that we have provided in Section 18.

The Presiding Officer [Senator Lina]: Senator Tatad, is there any transitory provision somewhere?

Senator Tatad: Does the Sponsor reject the proposed amendment?

Senator Alvarez: Yes, Mr. President.

Senator Tatad: Is it our understanding that these offices are not being abolished as of the passage of this Act but shall be abolished only after their powers and functions have been assumed by the department?

LINA AMENDMENT

The Presiding Officer [Senator Lina]: Maybe, we can have some sort of a compromise. ARE ABOLISHED SUBJECT TO SECTION 18 HEREOF to reflect the nuance that Senator Alvarez wants included in this section. ARE HEREBY ABOLISHED SUBJECT TO SECTION 18 HEREOF.

Senator Tatad: I think we should take into account what the distinguished Sponsor wants to convey in the other sections. But I think that the offices should be abolished under this law.

The Presiding Officer [Senator Lina]: ARE HEREBY ABOLISHED SUBJECT TO SECTION 18 HEREOF to reflect the nuance that Senator Alvarez wants reflected.

Senator Alvarez: Because as soon as this law is signed, there will be some processes of administrative...

The Presiding Officer [Senator Lina]: That is why subject to...

Senator Tatad: There is a transitional period, Mr. President.

The Presiding Officer [Senator Lina]: Section 18 refers precisely to transfer of rights, assets and liabilities.

So that is what the Sponsor of the bill wants to immediately convey in Section 16.

Senator Alvarez: I will yield to the wisdom of the Chair.

Senator Tatad: Thank you very much, Mr. President.

The Presiding Officer [Senator Lina]: The amendment is accepted.

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

On page 12. Is there any amendment on page 12? [*Silence*]

Is there any amendment on page 13?

Senator Macapagal-Arroyo: Mr. President.

The Presiding Officer [Senator Lina]: Senator Arroyo is recognized.

Senator Macapagal-Arroyo: Mr. President, lines 10 to 14, I propose the deletion of the sentence that begins with "In" and ends with "sources".

Senator Alvarez: What page is it, Mr. President?

MACAPAGAL-ARROYO AMENDMENT

Senator Macapagal-Arroyo: Page 13, lines 10 to 14, and to substitute the following sentence: THE AMOUNT OF TWO HUNDRED MILLION (P200,000,000) PESOS IS HEREBY AUTHORIZED FROM THE BALANCE OF THE OFFICE OF ENERGY AFFAIRS FUNDS AND FROM THE FUNDS OF THE NATIONAL TREASURY NOT OTHERWISE APPROPRIATED FOR THE OPERATING AND CAPITAL EXPENDITURES OF THE DEPARTMENT FOR THE FISCAL YEAR 1992.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: Mr. President, this is a more concrete provision but, as a matter of practice, we have not specified amounts in the Senate. We leave that to the House.

I welcome the amendment, however.

The Presiding Officer [Senator Lina]: Yes. The amendment is accepted.

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

Senator Tatad: Mr. President, I would like to go to an anterior amendment.

First, I would like to ask the distinguished Sponsor a clarificatory question.

Beginning on page 12, Section 19, line 22.

The organizational framework and staffing pattern of the Department shall be prescribed and approved by the Secretary within sixty (60) days after the approval of this Act and the authorized positions created therein shall be filled by regular appointments by the President or the Secretary as the case may be: *Provided*, That in the filling of positions created preference shall be given to the personnel of the Office of Energy Affairs and the Energy Coordinating Council: *Provided, however*, That such individuals...

and this is my point of inquiry:

... are, by demonstrated ability, background, training, or experience, especially qualified to assess fairly the needs and concerns of all interests affected by the Philippine energy policies.

Mr. President, I am trying to understand what exactly is meant here by "especially qualified to assess fairly the needs and concerns of all interests affected by the Philippine energy policies." It is a very broad statement that can be interpreted in a thousand ways. I suppose we need something more concrete than this in trying to establish the criteria for employment.

Senator Alvarez: Mr. President, this is a statement to the effect that we should hire personnel who are experienced and who know the energy program. In doing so, we should further refine the hiring process so that those who are hired are not hired just because they came from that particular office or department, but because they have the special merit and fitness to the job that is organized to which they will be appointed in the new department.

Senator Tatad: Mr. President, I am not so sure the Sponsor is being responsive to my inquiry. In trying to deter-

mine who should be hired and who should not be hired, we should have some quite specific criteria. This is a very broad statement that belongs to poetry rather than to the law.

Senator Macapagal-Arroyo: Mr. President.

The Presiding Officer [Senator Lina]: Senator Macapagal-Arroyo is recognized.

Senator Macapagal-Arroyo: Mr. President, may I try to contribute to the argument.

My understanding of this provision, Mr. President, is that the provisions on page 12, lines 31 and 32, and on page 13, lines 1 and 2, refer to those who will be absorbed by the new department from the Office of Energy Affairs and the Energy Coordinating Council. However, it seeks to provide that not everybody will be absorbed, only those who are qualified.

If Senator Tatad is looking for something more specific, perhaps, we can introduce an amendment that will say something like: *PROVIDED, HOWEVER, THAT SUCH INDIVIDUALS COMPLY WITH THE QUALIFICATION STANDARDS SET BY THE CIVIL SERVICE COMMISSION FOR THE POSITIONS THAT THEY ARE APPOINTED TO.*

Something like that.

Senator Tatad: That would be more acceptable because that is more precise.

The Presiding Officer [Senator Lina]: What does the Sponsor say?

Senator Alvarez: Mr. President, what is in a rose? I will accept the amendment. That which we call a rose will smell as sweet.

Senator Tatad: A rose would not be the same if we called it a skunkweed.

The Presiding Officer [Senator Lina]: The amendment is accepted. Is there any objection? [*Silence*] Hearing none, the amendment is approved, subject to refinement and style.

We are now on page 13, the penultimate page. Are there any amendments?

Senator Tañada: Mr. President.

The Presiding Officer [Senator Lina]: Senator Tañada is

recognized.

TAÑADA AMENDMENT

Senator Tañada: Yes, Mr. President. On line 24, after the word "organizations", delete the word "with" and, in lieu thereof, insert the word IN.

Senator Alvarez: In which section is this, Mr. President?

Senator Tañada: Section 22, line 24. After the word "organizations", delete the word "with" and, in lieu thereof, insert the word IN. It is just a matter of style, Mr. President.

Senator Alvarez: It is accepted, Mr. President.

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

Senator Guingona: Mr. President.

The Presiding Officer [Senator Lina]: Does Senator Tañada have additional amendments?

Senator Tañada: On the last page, Mr. President.

The Presiding Officer [Senator Lina]: On page 13 yet.

Senator Guingona: Also on the last page, Mr. President.

The Presiding Officer [Senator Lina]: Also on the last page. On what line?

Senator Guingona: It will be a new concept, Mr. President.

The Presiding Officer [Senator Lina]: Senator Tañada, also on the last page--maybe on line 1?

Senator Tañada: On Line 18, Section 23.

The Presiding Officer [Senator Lina]: Is the amendment of Senator Guingona on line 18 or after line 18?

Senator Guingona: Before line 18.

The Presiding Officer [Senator Lina]: Before line 18. So Senator Guingona is recognized.

Senator Guingona: Mr. President, I just like to ask the distinguished Sponsor, because the non-government corporations, which have a contract with the government for the

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SENATE

Record of the Senate

FIRST REGULAR SESSION
OCTOBER 19 TO DECEMBER 18, 1992

VOLUME II, NOS. 29-44

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RECORD OF THE SENATE

MONDAY, OCTOBER 19, 1992

OPENING OF THE SESSION

At 3:44 p.m., the Honorable Neptali A. Gonzales, President of the Senate, called the session to order.

The President: Binubuksan ang ikadalawampu't-siyam na sesyon ng Senado.

Inaanyayahan ang lahat na ating awitin ang Pambansang Awit sa pangunguna ng MWSS Choir na magbibigay rin sa atin, pagkatapos noon, ng isang awiting pinamagatang "Pag-yamanin Ang Kapaligiran." Pagkatapos ay mananalangin tayo sa pangunguna ni Senadora Anna Dominique M.L. Coseteng.

Everybody rose for the singing of the National Anthem.

After the singing, everybody remained standing for the opening prayer.

PRAYER

Senator Coseteng:

Heavenly Father, the Giver of all life, we call on Your blessing upon us so that we may accomplish what we have set out to do.

Help us to give full meaning to all the expressions of concern for our people and our environment.

You have so richly endowed our land with forests and rivers and mountains, with its bountiful flora and fauna.

All these You have given us as Your chosen people in this land, for us to use, and not abuse.

Grant us the wisdom to understand that our very own human survival depends on the continuing existence of these natural resources.

Enlighten each one of us and help us remember our pristine purpose when we first sought the position we now occupy.

Let not our noble objectives be clouded by considerations that will not benefit the greater number of our people who are, in fact, in most need of our concern.

We thank You, Lord, for the opportunity You have given us to serve our country and our people.

May the service we render be truly acceptable before Your eyes.

Amen.

SUSPENSION OF THE SESSION

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

It was 3:51 p.m.

RESUMPTION OF THE SESSION

At 3:53 p.m., the session was resumed.

The President: The session is resumed.

Babasahin ng Kalihim ng Senado ang talaan ng mga Senador.

ROLL CALL

The Secretary:

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Rodolfo G. Biazon	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Jose D. Lina, Jr.	Present
Senator Gloria Macapagal-Arroyo	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator John H. Osmeña	Present*
Senator Santanina T. Rasul	Present*
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Leticia R. Shahani	Present*
Senator Vicente C. Sotto III	Present
Senator Wigberto E. Tañada	Present
Senator Francisco S. Tatad	Present
Senator Arturo M. Tolentino	Present*
Senator Freddie N. Webb	Absent
The President	Present

* Arrived after the roll call

hearings at one o'clock, may we know from the Chair whether we are going to vote on Third Reading on the Department of Energy Bill?

Senator Romulo: Mr. President, we have in the agenda on Third Reading Senate Bill No. 695, "An Act Creating the Department of Energy," as well as the Conference Committee Report on the disagreeing provisions of Senate Bill No. 132 and House Bill No. 317, the bill on the retirement pay to qualified private sector employees.

The President: The last interpellator would be Senator Shahani.

Senator Shahani: I shall be very brief, Mr. President.

Mr. President, I wonder whether our Colleague from Quezon would entertain just a few questions.

Senator Tañada: Yes, willingly, Mr. President.

Senator Shahani: Mr. President, I am sure our distinguished Colleague was aware of the way the Bases Conversion Development Authority Act of 1992 was drafted. Does he remember whether the Department of National Defense participated in the consultations of the preparation of this major piece of legislation?

Senator Tañada: Yes, Mr. President. If I recall right, they were present in some of the meetings or public hearings held.

Senator Shahani: And was it not the Secretary of National Defense himself who was consulted and who pronounced the position of the Department of National Defense as far the Bases Conversion and Development Authority Act was concerned?

Senator Tañada: That is correct, Mr. President.

Senator Shahani: Mr. President, I really do not quite understand why so much importance is given to a statement from the head of the Air Force who, after all, would be, I would say, number five in the pecking order. He may have given this piece of paper, but I believe the position of the military is quite clear in the Bases Conversion Authority, that it is primarily for civilians and commercial use. Is that not the thrust of this Bases Conversion Authority Act, Mr. President?

Senator Tañada: That is what should happen under Republic Act No. 7227, Mr. President. But I cannot just keep quiet when I am handed this paper which shows that there is

this plan of the Philippine Air Force. This plan, apparently, has been the reason for the concerns that have been expressed by the residents of Angeles City, Mabalacat, Porac, and Capas. As a matter of fact, this has been brought also to the attention of Senator Arroyo and Senator Biazon.

Mr. President, what gives credence to this plan is the lack of action on the part of the Ramos Administration to respond to the expressed concerns coming from the residents of Angeles City, Mabalacat, Porac, and Capas regarding the constitution of the BCDA and the declaration of Clark as a special economic zone which would, to them, be the clear evidence that this plan is not being supported or is not gathering support from the Ramos Administration.

Senator Shahani: Mr. President, I think I would protest against the giving of so much importance to a paper from an already retired head of our Air Force.

During the drafting of this bill, the National Defense Department participated fully. I think it is quite clear that it has a share but it does not have the lion's share. I believe those of us who participated in crafting this legislation had primarily in mind the civilian use.

So I would object that a bill of major import should be misinterpreted just because we have a document from, maybe, somebody who has ambitions for the Air Force.

It is one thing I would like to stress, Mr. President. This Conversion Act is a responsible piece of legislation. Mrs. Aquino signed it into law. She was then the Commander-in-Chief of the Armed Forces of the Philippines, and I think that has to be remembered.

I just also would like to make the observation, Mr. President, that more than 300 days have passed since this bill was signed into law. But it was the previous administration, I mean, the previous administration had, I guess, about 200 days or even less. But then the elections came, the campaign period came, Mr. President, and the installation of a new administration has taken some time.

Granted there has been some delay--and I am not an apologist for this present administration, but I think there has to be a sense of fairness not to give all of the burden of guilt on this present administration of more than 300 days because there was also inaction. Anyway, I am glad that President Aquino did not right away act on this piece of legislation because its implications are enormous.

That is all I would like to say, Mr. President. I think, as

was said by the Head of the Task Force of the BCDA yesterday, the Board is being formed. I think they are taking some time to identify who should be the chairman of this very big corporation. I think the personality of this gentleman or woman would be crucial to our own economic recovery.

So I just would like to bring in some of these details so as to avoid any twisting or distortion of the history of this Act.

Thank you, Mr. President.

Senator Tañada: I fully appreciate the position taken by Senator Shahani. But as one of the Authors of Republic Act No. 7227, I cannot be expected to remain silent about this paper, which was even submitted to the Department of National Defense on the same date that the law was signed, Mr. President.

It is a fact that despite the clear mandate of the law that the BCDA should be constituted within 30 days from its taking into effect; that BCDA has not been constituted. It is also a fact that there are these continuing concerns being expressed by the residents of Angeles City, Mabalacat, Porac and Capas which cannot just be disregarded.

The President: Thank you, Senator Tañada.

Senator Romulo: Mr. President.

The President: The Majority Leader is recognized.

**MOTION OF SENATOR ROMULO
(Referral of Senator Tañada's Speech to the Committees
on Foreign Relations & National Defense)**

Senator Romulo: Mr. President, I move that we refer the privilege speech of Senator Tan-ada to the Committee on Foreign Relations and to the Committee on National Defense and Security.

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

**BILL ON THIRD READING
Senate Bill No. 695--Creating the Department of Energy**

Senator Romulo: Mr. President, I move that we vote on Third Reading on Senate Bill No. 695. Copies of the bill were distributed to all the Members of the Senate on October 29, 1992.

The President: Voting on Third Reading on Senate Bill No. 695 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. 695, entitled

AN ACT CREATING THE DEPARTMENT OF ENERGY, DEFINING ITS POWERS AND FUNCTIONS AND FOR OTHER PURPOSES.

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

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

YES - 17

Senator Alvarez*	Senator Roco*
Senator Aquino	Senator Romulo*
Senator Biazon*	Senator Shahani*
Senator Guingona*	Senator Sotto*
Senator Herrera*	Senator Tañada*
Senator Lina*	Senator Tatad*
Senator Maceda*	Senator Webb*
Senator Mercado*	The President
Senator Osmeña*	

NO - 0

ABSTENTION - 0

RESULT OF VOTING

The President: With 17 affirmative votes, no negative vote, and no abstentions, Senate Bill No. 695 is approved on Third Reading. [Applause]

Senator Alvarez: I vote yes, Mr. President.

EXPLANATION OF VOTE OF SENATOR AQUINO

Senator Aquino. Mr. President, I am for the approval of this bill creating the Department of Energy.

It is a timely measure to solve the energy crisis that grips our country. We need the Department of Energy to effectively combat the power shortage, an initial step towards our pursuit of economic development and the alleviation of our people's hardships.

* With explanation of vote

But as I welcome the creation of the department, I would like to place it on record that the bill should have included a provision on nuclear energy.

The nuclear issue, although met with trepidation by many sectors of our society, should nevertheless be further explored as an alternative source of power. The responsible utilization of nuclear power would lessen our dependence on oil imports. Moreover, nuclear research will benefit our country not only in terms of power generation but also in the fields of agriculture, food, health, nutrition and medicine.

Towards this end, I would have preferred that we place the Philippine Nuclear Research Institute under the Department of Energy, to function as an agency tasked with the research and development of radiation and nuclear materials, processes and techniques.

May I also emphasize the importance of pursuing these goals within the perspective of a sound overall environmental policy. The soon-to-be-created department should undertake the use of new energy sources like wind and solar power, and new methods to make better use of the resources we already have.

I also support Senator Alvarez' current efforts in investigating the possible ill effects geothermal plants have on outlying communities. As we explore different measures to solve the energy crisis, we must not neglect the supreme objective, which is to preserve our environment for the welfare of generations to come.

I vote for the approval of the bill.

Thank you, Mr. President.

EXPLANATION OF VOTE OF SENATOR BIAZON

Senator Biazon: Mr. President, I vote for the approval of this bill, especially for paragraph (b), Section 7, and all the other supporting provisions within this law.

I hope that the essence of this paragraph or section is not lost in the concern for the overall overseeing of the energy management.

Thank you, Mr. President.

Senator Guingona: I vote yes, Mr. President.

EXPLANATION OF VOTE OF SENATOR HERRERA

Senator Herrera: I vote yes, Mr. President, but I would like to reserve the right to submit a written explanation of my vote.

The following is the written explanation of vote of Senator Herrera:

Mr. President:

Employment remains to be a nagging issue in our country. As of April 1992, official figures recorded almost 4 million jobless Filipinos nationwide. Worse, this figure may even rise if the economic take-off and development we desire does not come about soon.

Increased investments is a key strategy to economic development and concomitantly, to employment-generation. According to analysts, the elections of May 1992 have brought back investor confidence in the country. However, this may be negated by the *lack* of power to sustain the potential increase in industrial activity. Indeed, our insufficiency in terms of energy or power has dented and will continue to dampen our economic initiatives and our employment program if nothing is done about it.

Recently, the private sector confirmed that industrial and commercial establishments under the franchise area of the MERALCO in Luzon have already incurred losses estimated at P20 B since January 1992 while service oriented industries have lost another P6 B-all because of power interruptions.

On the other hand, down in Mindanao, the Department of Labor reports that the implementation by the National Power Corporation of a 50 percent cutback in electricity affected some 10,000 workers who were either permanently or temporarily separated or went on reduced worktime/rotation. Based on its survey conducted from January 7 - February 15, 1992, the department also reported that alongside retrenchment, other companies held back expansion plans until the power supply stabilizes. This means X number of badly needed jobs that would have been generated but which, in the meanwhile, are kept "in the dark."

The power crisis, as attested by the National Statistics Office is one major reason for the decline in employment opportunities. The report avers that the power shortage in Luzon and Mindanao affected operations of business establishments so that workers were retrenched and expansion plans were put on hold until the supply of electricity becomes more reliable.

And yet, we seem to have brought the problem unto ourselves. Our power insufficiency did not have to occur. It resulted mainly from a lack of planning and a lack of a mechanism to monitor, project, plan and implement our energy needs vis-a-vis our economic program and growing population. We are now suffering the backlash of our own neglect.

For this reason, I vote for the enactment of Senate Bill No. 695 for the chance it will give prospective-as well as the idle-Filipino workers to be gainfully employed and contribute to this country's economic well-being. The creation of the Department of Energy admittedly will not put an immediate end to the daily 6-hour power shortages we are now experiencing. But definitely, it provides hope for the long-term solution of our energy problem; and energy or power is a requirement for development.

EXPLANATION OF VOTE OF SENATOR LINA

Senator Lina: I vote yes, Mr. President, with a reservation to submit an extended explanation. But let me put into the record at this point that this bill, if it is enacted into law-- and I hope that it is enacted soon--will not provide the immediate solution to the problem of lack of energy in the country, Mr. President. The effects of this legislation will be felt much later.

So I just would like to get that message across so that the public would not be misled into thinking that as soon as we enact this bill creating a Department of Energy, all the problems of energy will soon be solved. That is not the case, Mr. President.

The following is the written explanation of vote of Senator Lina:

I vote for the approval of Senate Bill No. 695.

We face an energy crisis. The power shortage has led to losses in business opportunities. The continued brownouts that we experience daily for some years now has hindered our economic development.

There is a lack of foresight in the management of our energy resources. The development of our energy resources has not addressed the geometrically, increasing demand for power.

The creation of the Department of Energy is a step towards the right direction in the solution of the energy problem.

The creation of the Department of Energy will certainly not immediately solve the energy crisis. A lot more must be done in the preparation, integration, coordination and supervision of government plans, programs, projects and activities relating to energy exploration, development, utilization and conservation. These functions, the Department of Energy is tasked with.

Senate Bill No. 695 may be misinterpreted as a caprice of the Congress to create another layer of bureaucracy. But, as I have mentioned, the task at hand is so enormous that the creation of a department is necessary.

Clearly, a lot depends on the Department of Energy in solving the present energy problem.

The passage of Senate Bill No. 695 is just the initial phase to alleviating our energy problems. Our proper monitoring, through the oversight committee, will ensure that the Department of Energy does its functions, with the end in view of providing a short, medium and long-term solutions to the energy crisis.

EXPLANATION OF VOTE OF SENATOR MACEDA

Senator Maceda: Mr. President, I did not join the rush of people who presented proposals to create this department after this new Congress convened, for several reasons:

First, of all, there are many of us, including this Representation, who believe that the proper direction is the original announcement of President Ramos that we should reduce the number of departments and the government bureaucracy instead of increasing the same.

Secondly, Mr. President, I was apprehensive in the beginning--and there was some basis for my apprehension--that the bill would be used by interested parties to promote their indi-

vidual self-interest, and I refer specifically to the position officially sent to us in a letter by the multinational oil companies who batted for deregulation of the petroleum industry sector from the very beginning.

Mr. President, just like many others here, I was also not too sure that this particular approach will assure the solution of our present energy crisis or power crisis specifically.

However, after 120 days where there has been no clear, effective initiatives undertaken so far, especially in terms of reorganizing even the present leadership of the NAPOCOR, the NEA and other energy-related institutions. And because of certain amendments which have been very skillfully guided and crafted by the distinguished Sponsor, the Gentleman from Isabela, we feel that we have come, as usual, to a compromise final version of this bill which, at least, gives us a 60/40 chance of hoping that if not for this short-term, in the medium-term and in the long-term that this particular bill and this particular department and the powers given to it would, assure in the words of the Gentleman from Cebu and Bohol, Senator Herrera, a sustained, an interrupted and continuous, if I may add, and affordable, if not economical supply of electric power to our suffering population.

The bill has also not categorically agreed to a policy of deregulation except a promise to consider it at the appropriate time for appropriate activities.

We have fought, Mr. President, and we will continue to fight being a developing country against any relaxation of government control over pricing and similar activities which directly affect the day-to-day life or the day-to-day poverty of our people.

It is very clear from the discussions and the final form that the deregulation of pricing of petroleum products and the deregulation of pricing of power services is nowhere going to happen within the next four or five years.

Hopefully, Mr. President, it will only happen when we have achieved economic recovery, hopefully, by 1998, which the President has targeted as his deadline for giving us the kind of economic recovery that we have been hoping for.

Mr. President, we have also made sure in this bill that the Energy Regulatory Board is given direction by way of the new provisions which include, among others, a requirement that henceforth, of the five members of the Energy Regulatory Board, at least one should be recommended by the labor sector and another one recommended by consumer associations.

Mr. President, in the matter of the government corporations, such as NAPOCOR, NEA and PNOC, which have operated like independent republics and operated with such extravagance inconsistent with their inefficient and unsatisfactory performance, we have provided that the same offices shall now be under the supervision and control of the Department of Energy.

For this and other reasons, Mr. President, I feel comfortable in supporting this bill and voting in its favor. But just like any other new office or department, it will be up to the President to appoint the right person to this position, and it will be up to the President to see to it that he exercises sufficient supervision over the Secretary of Energy and the Department of Energy and to see to it that it delivers on the purposes and objectives for which we have spent so much time to finally come to this chapter in our legislative history.

I vote yes, Mr. President.

EXPLANATION OF VOTE OF SENATOR MERCADO

Senator Mercado: Mr. President, the prevailing conventional wisdom is that, with the creation of the Department of Energy, we will be able to solve our energy problems. I am afraid, that is not necessarily true.

However, this bill approved today will be the first step for us to be able to grapple with this vexing problem of lack of energy.

Mr. President, I would like to state that the problem here of energy is something that cannot be separated from the problem of environmental conservation.

I have constantly said during the deliberations of this measure that we have not yet decided on the issue of whether this country should go nuclear or not, and that is the reason why I have objected to any mention of nuclear energy. However, it is also true that in our country, our existing energy sources have so deteriorated because of our inability to take care of these resources.

Look at what has happened to our hydroelectric plants, Mr. President. Many of them are performing 15 to 20 percent of capacity because of the denudation of the watersheds which has been occurring for many decades.

We, ourselves, have not been able to push a vital resource, like geothermal energy, to its hilt only because we have not been able to conduct the proper multisectoral consultations and ensure that we will be able to preserve the environment as

we try to generate the necessary energy for our electricity.

Moreover, Mr. President, I have stressed that one of the most important functions of this department is to see to it that it is able to perform a function in the area of conservation. It must come up with a continuing program for energy conservation.

Regarding our water resource in this country, Mr. President, more than 50 percent of the water that we chlorinate and process is wasted. It is either spilled, because of illegal connections and leakages, or it is stolen.

Mr. President, while it may not be said to be of the same level with regard to energy, the incontrovertible fact is that a lot of the energy or the electricity we are generating is actually lost because of our lack of consciousness of conservation practices.

We think of conservation only when there is a crisis, when the price of oil shoots up, or when we are faced with a serious lack. I think, conservation should be a permanent concern that should be undertaken by this department. It is unfortunate that sometimes there is a contradiction in the mandate. Here is a department that is created to develop the energy resources. It would entice the purchase of the energy that it generates, and it should also at the same time, see to it that it is conserved.

I think it is imperative that conservation becomes just as important as energy-generation.

With all that considered, Mr. President, I vote in favor of this measure.

EXPLANATION OF VOTE OF SENATOR OSMEÑA

Senator Osmeña: Mr. President, I would like to stand here today and say that as the Author of Senate Bill No. 7, which was incorporated into this bill--that is why my name appears first among the Authors of this bill--I am happy that today we are finally rectifying an error of the Aquino Administration.

In the early days of the Aquino Administration, Mr. President, there was not neglect, but a conspiracy to set back our efforts to be self-sufficient in energy. That conspiracy started, and the record of the Senate will show, when the President of Shell Philippines, one of the three petroleum suppliers, advised Mrs. Aquino to abolish the Department of Energy. After that, we have to see for ourselves how our drive for self-sufficiency, which at the time of the EDSA revolution showed that 60 percent of the energy requirement of this country were

already sourced from within the country and only 40 percent was sourced from outside the country, this has reversed over the six years of the Aquino Administration to the point that today, 65 percent of our energy sources are imported and only 35 percent is locally sourced.

So, perhaps realizing, and we have to give her credit for that, she publicly submit to that error, she certified a bill to Congress to create the Department of Energy. At that point, I was the Chairman of the Committee on Public Services. Our Committee reported out a bill. Unfortunately, we were overtaken by many other bills including the Bases Conversion Act and so many matters pending before the Senate, so the last Congress never approved the Department of Energy bill.

So, today, Mr. President, we are here approving the creation of that department.

Historically, I have been involved in the energy issue from the early days when you and I were Members of the House of Representatives over 22 years ago. At that time, I was a Member of the committee that approved the Oil Energy Commission Law. And by some fortunate development, I was elected to the Senate and I was again a Member of the committee under the chairmanship of Senator Diokno, when the bill was approved in the Senate. Over the years, that law took several changes, but never in all these years had the idea of deregulation ever been introduced until this idea found its way in the Senate today.

The principal feature of Senate Bill No. 7 which I authored, and in this bill was precisely to deregulate. As a product of compromise, and I have asked that the Record of the Senate show what were the proposals and what was the result of the compromise We have provided for a deregulation to take place four years from now.

Four years from now, Mr. President, or sooner if the Executive Department sees fit, we will have a deregulation program, and that program is clearly spelled out in the proposals that are now in the Record of the Senate.

That is why, Mr. President, I feel that today we are crafting a bill of historic importance. One, it reverses an error of the Aquino Administration for which the country has paid dearly and, two, Mr. President, it introduces the concept of deregulation which, I think, will bring about energy self-sufficiency and availability to this country in the years to come.

Thank you, Mr. President.

EXPLANATION OF VOTE OF SENATOR ROCO

Senator Roco: I will adopt the first sentence of the Gentleman, Mr. President. But could I have a little time to explain my vote. And considering that the Gentleman from Manila has put a...yes, maybe, I will be motivated to speak longer.

The Department of Energy, Mr. President, as proposed may be the best under the present circumstances, but in terms of deregulation and privatization, it is too late. We are told, Mr. President, that this department is needed because there is an emergency now, and the emergency accumulated in terms of circumstances because of the long period of central control and regulation.

Instead of seeking, however, widest involvement and participation by all sectors in fighting the problem which can only be possible if we have an era of deregulation, well, the bill does not do this. The bill suggests an answer. Let us move towards deregulation four years downstream. We are told it is very urgent today. The answer is: We will solve it four years from now. Or, maybe, sometime during that four-year period we may even find some new answers that will bring some reprieve and relief to our people.

Mr. President, more central powers, more central control. By the most gifted managers has been proven insufficient to generate productivity, efficiency or better services for the citizenry. Market forces must be allowed to tap the creativity and the dynamism of the Filipino people. We may have the most brilliant Secretary of the Department of Energy, and we commend him to the future and to the patrimony of the nation for his gifts, but no single individual, no single group, no matter how gifted, can possibly solve the energy problem of the country because every single Filipino must participate. And that can be achieved only if we allow market forces to prevail.

We have seen it demonstrated in Europe; we have seen it demonstrated in the Eastern part of Europe; we have seen it demonstrated in other parts of the globe. We cannot be blind to these developments.

The bill, however, centralizes control over pricing. Even as we want to move towards deregulation, one of the essential elements of this bill is to centralize control over pricing.

When I asked the Gentleman, the Minority Leader, whether in fact there are companies that are willing to come into the Philippines to help us solve our energy problems, considering the centralized control over pricing, he mentioned

that there are four companies. He mentioned even one that is coming in under this most stringent condition. I hope, Mr. President, that he is right because the Philippines does not have time to be in error today. But, at least, if we are able to show that these four companies--and purportedly they are foreign companies--can come in under this controlled atmosphere, then maybe it shall prove the wisdom of our compromise. Legislation, however, is the result of evolved consensus, and that evolved consensus has been brought with much pain.

Mr. President, I commend and congratulate the Sponsor for his patience and diligent grappling with the different amendments. I just wish to put on record that I was also privileged and pleased to introduce two legislative standards that may have been helpful even under the distorted evolution of the Department of Energy.

Mr. President, those two standards I just want to put on record as additional support for this bill are the two following guidelines:

One, we implement the constitutional provision of giving direct benefits to the regions that host energy-generating facilities because these regions may lose a resource that will never come back. Not only that. They may suffer environmental problems because they are helping supply the energy of the rest of the country. I think all of us here when we campaigned were subjected to this kind of demands. It is a way of responding to those questions when we were campaigning that we sought to put this into the bill.

Two, we also introduced a philosophical bias on the part of this Representation--that the private enterprises, when eventually allowed to participate in energy generation and energy activities in a greater fashion, must be committed to the widest public ownership of their companies or cooperatives or other collective modes of ownership.

It is not enough, Mr. President, if four years from now we encourage private enterprises to be controlled by one, two or three families. That should not be a source of relief for the Filipino people. If there must be wealth later on in these energy activities, let it be shared with the widest possible ownership of these companies to the widest possible participation of the Filipino people. I think the incumbent President won on the proposition of people empowerment. Let us, therefore, take seriously what they have been discussing during the campaign.

As I said, Mr. President, legislation is the result of evolved consensus. It is on that basis that I vote yes for this bill.

Thank you very much, Mr. President.

EXPLANATION OF VOTE OF SENATOR ROMULO

Senator Romulo: Mr. President, I am voting yes to this important legislative measure. Due to the lateness of the hour, however, I just reserve the right to submit a written explanation of my vote.

Mr. President, may I also take this opportunity to manifest that the coauthor of this bill is Senator Rodolfo Biazon.

Mr. President, on behalf of our Colleague Senator Edgardo Angara, may I say that he is voting yes to this bill. Also on behalf of another Colleague, Senator Blas Ople, may I also say that he is voting yes to this bill. Both Gentlemen, Senators Angara and Ople, also reserve their right to submit a written explanation of their yes votes.

Thank you, Mr. President.

EXPLANATION OF VOTE OF SENATOR ANGARA

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

Mr. President, one of the major problems besetting our country today is the energy crisis. Without falling into the easy and strong temptation of placing blame on scapegoats for this unbearable situation, it is incumbent upon us to initiate a creative and innovative solution.

Senate Bill No. 695 is the product of compromises and the combined intellectual efforts of the distinguished members of the Senate. Though not a complete solution to the energy problem, it is nevertheless a first step in a long journey.

The bill, Mr. President, creates a Department of Energy that would respond to the needs of the times. It ensures that one of the thrusts of the government, which will be implemented by the new Energy Department, shall be that of deregulation.

The department, four years after the effectivity of this Act, shall institute upon approval of the President, the program and timetable of deregulation of appropriate energy projects and the activities of the energy industry.

This would be in keeping with the spirit of the proposed measure's declaration of policy which emphasizes the promotion of private sector initiative.

The new Department of Energy, among other things, shall formulate policies for the planning and implementation of a comprehensive program for the efficient supply and economical use of energy consistent with the approved national economic plan. It shall also provide a mechanism for the integration, rationalization and coordination of the various energy programs of the government.

As a response to the need to protect the environment, the department shall have a preferential bias for environment-friendly, indigenous and low cost sources of energy while it develops and updates the existing Philippine Energy Program which, in turn, shall provide for an integrated and comprehensive exploration, development, utilization and conservation of energy resources.

Mr. President, it is high time that we embark on a serious, sincere and concerted effort towards deregulation and privatization. Senate Bill No. 695 shall be an initial step in our long journey towards our desired end.

As the government encourages private companies and individuals to fill the vacuum in the field of energy, we shall surely witness the dynamism, creativity, and entrepreneurial spirit of our countrymen. We will unleash the drive, talent and commercial knowhow of our private sector which will definitely augur well for the nation.

For the abovementioned reasons, Mr. President, I vote in the affirmative for Senate Bill No. 695.

EXPLANATION OF VOTE OF SENATOR SHAHANI

Senator Shahani: Mr. President, I vote yes for this important piece of legislation. However, I should like to reserve the right to submit in writing my comments on this bill.

Before concluding, I just would like to congratulate our Colleague, Senator Alvarez, for his masterly shepherding of this bill to its finality.

Thank you, Mr. President.

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SENATE

Record of the Senate

FIRST REGULAR SESSION
OCTOBER 19 TO DECEMBER 18, 1992

VOLUME II, NOS. 29-44

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RECORD OF THE SENATE

MONDAY, OCTOBER 19, 1992

OPENING OF THE SESSION

At 3:44 p.m., the Honorable Neptali A. Gonzales, President of the Senate, called the session to order.

The President: Binubuksan ang ikadalawampu't-siyam na sesyon ng Senado.

Inaanyayahan ang lahat na ating awitin ang Pambansang Awit sa pangunguna ng MWSS Choir na magbibigay rin sa atin, pagkatapos noon, ng isang awiting pinamagatang "Pag-yamanin Ang Kapaligiran." Pagkatapos ay mananalangin tayo sa pangunguna ni Senadora Anna Dominique M.L. Coseteng.

Everybody rose for the singing of the National Anthem.

After the singing, everybody remained standing for the opening prayer.

PRAYER

Senator Coseteng:

Heavenly Father, the Giver of all life, we call on Your blessing upon us so that we may accomplish what we have set out to do.

Help us to give full meaning to all the expressions of concern for our people and our environment.

You have so richly endowed our land with forests and rivers and mountains, with its bountiful flora and fauna.

All these You have given us as Your chosen people in this land, for us to use, and not abuse.

Grant us the wisdom to understand that our very own human survival depends on the continuing existence of these natural resources.

Enlighten each one of us and help us remember our pristine purpose when we first sought the position we now occupy.

Let not our noble objectives be clouded by considerations that will not benefit the greater number of our people who are, in fact, in most need of our concern.

We thank You, Lord, for the opportunity You have given us to serve our country and our people.

May the service we render be truly acceptable before Your eyes.

Amen.

SUSPENSION OF THE SESSION

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

It was 3:51 p.m.

RESUMPTION OF THE SESSION

At 3:53 p.m., the session was resumed.

The President: The session is resumed.

Babasahin ng Kalihim ng Senado ang talaan ng mga Senador.

ROLL CALL

The Secretary:

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Rodolfo G. Biazon	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Jose D. Lina, Jr.	Present
Senator Gloria Macapagal-Arroyo	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator John H. Osmeña	Present*
Senator Santanina T. Rasul	Present*
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Leticia R. Shahani	Present*
Senator Vicente C. Sotto III	Present
Senator Wigberto E. Tañada	Present
Senator Francisco S. Tatad	Present
Senator Arturo M. Tolentino	Present*
Senator Freddie N. Webb	Absent
The President	Present

* Arrived after the roll call

dent. Because the other bills that have been consolidated in this bill provided for a higher percentage than what is recommended.

I have made consultation with the other authors, Mr. President, and they are unanimous in their position to delete this particular provision. So, with that, I think not only Senator Maceda will be pleased, the Sponsor also appreciates very much the decision of the other authors.

MACEDA AMENDMENT

Senator Maceda: I so move, Mr. President, that on page 5, all the proposed amendments in capitals be deleted.

The President: From what lines?

Senator Maceda: From lines 15 to 28.

The President: Starting from...

Senator Herrera: The whole paragraph, Mr. President.

The President: What does the Sponsor say?

Senator Herrera: It is accepted, Mr. President.

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

Senator Maceda: As a result of the amendment, Mr. President, the title has to be correspondingly amended to exclude that portion.

Senator Herrera: It is accepted, Mr. President.

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

What is the effect of the deletion brought under this amendment?

Senator Herrera: The effect, Mr. President, is that the local government unit will not get any incentive at all, whether there will be an increase, regardless of the increase in the collection of VAT in a particular locality.

The President: But then the entire proceeds...

Senator Herrera: Will go now to the National Government.

The President: And for which the LGUs will participate in accordance with the revenue-sharing provision under the Local Government Code.

Senator Herrera: Yes, Mr. President.

The President: I think that is better.

Senator Guingona: Mr. President.

The President: The Minority Leader is recognized.

Senator Guingona: In which case, can we leave untouched the provision in the Local Government Code that the filing of returns should be by branches and by main offices by the filing firm concerned?

The President: Is the Minority Leader proposing an amendment?

Senator Guingona: Yes, if the distinguished Sponsor will accept it.

Senator Herrera: I have no objection, Mr. President.

The President: Can we have the formal amendment now?

Senator Herrera: It will be on page 2, lines 20 to 23. This is the portion that the Gentleman would like to be amended.

GUINGONA AMENDMENT

Senator Guingona: Yes. We delete the phrase starting from the word "FURTHER" up to line 23, so that it will now read: "PROVIDED, FURTHER, THAT THE FILING OF RETURNS BY THE TAXPAYERS SHALL BE IN ACCORDANCE WITH THE PROVISION OF THE LOCAL GOVERNMENT CODE."

The President: So the amendment starts from what particular line?

Senator Guingona: From line 20, starting from the words "PROVIDED, FURTHER". Then delete the phrase "THAT ONLY" up to line 23, Mr. President.

The President: As a consequence, the colon (:) after "registration" on line 20 be changed to a period (.)

Senator Guingona: Yes, Mr. President.

The President: What does the Author say?

Senator Herrera: It is accepted, Mr. President.

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

Senator Romulo: Mr. President, there being no other individual amendments, I move that we close the period of individual amendments.

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

APPROVAL ON SECOND READING
OF SENATE BILL NO. 968, AS AMENDED

Senator Romulo: Mr. President, I move that we vote on Senate Bill No. 968 on Second Reading, as amended.

The President: We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill, as amended, will please say *Aye*. [Several Senators: *Aye*] As many as are against will please say *Nay*. [Silence] Senate Bill No. 968, as amended, is approved on Second Reading.

BILL ON SECOND READING
(Senate Bill No. 356 - Long-term Lease of
Private Lands to Foreign Investors)
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 356 as reported out under Committee Report No. 8.

The President: Resumption of consideration of Senate Bill No. 356 is now in order.

Senator Romulo: We are in the period of individual amendments, if any, Mr. President. I ask that the distinguished Sponsor and Author, Senator Gloria Macapagal-Arroyo be recognized.

The President: Senator Gloria Macapagal-Arroyo, Chairman of the Committee on Economic Affairs is hereby recognized.

What is the parliamentary status of this bill?

Senator Romulo: Mr. President, the Committee amend-

ments have already been proposed and approved. Before we suspended consideration of this bill last night, Senator Tañada was on the Floor and he had asked to be given until today to present a possible individual amendment.

The President. Senator Tañada is recognized for purposes of individual amendments.

Senator Tañada: Thank you, Mr. President.

I have gone over the bill filed by Senator Arroyo, Senate Bill No. 529, entitled "An Act Prescribing Limits on Peso Borrowings by Non-Filipino Entities Operating in the Philippines," and I find that this bill is similar, if not the same, to the bill that I had filed at the last Congress, Senate Bill No. 1276, entitled "An Act Prescribing A Credit Ceiling for Foreign Business Entities Operating in the Philippines."

In view of this, Mr. President, I will no longer propose the amendment I had intended to propose to Section 4 of the bill now under consideration. I know that that amendment had been accepted by the Sponsor, but I will give way to the preference that she had manifested last night that since there is this other bill providing for a ceiling on the peso borrowings of non-Filipino business entities operating in the Philippines, that would already sufficiently address the concern that I had raised last night. I would only hope that Senator Arroyo would work just as hard in seeing to the passage of Senate Bill No. 529.

Mr. President, I would, however, like to ask the Sponsor some clarificatory question on the other parts of the bill now under consideration.

The President: The Sponsor may yield if she so desires.

Senator Macapagal-Arroyo: Gladly, Mr. President.

Senator Tañada: On page 2, lines 12 to 14, Mr. President, and this refers to paragraph (c) of Section 3, it reads as follows: "The lease contract/agreement shall be entered into and implemented within five years (5) from the approval of this Act."

Would this mean, Mr. President, that after five years from the approval of this Act, the lease contracts envisioned under this bill could no longer be entered into?

Senator Macapagal-Arroyo: The meaning of this, Mr. President, is that only those who will sign a lease contract within five years from the approval of this Act and if the Act is approved this year, only those who entered the Philippines and

signed a lease contract during the Ramos Administration will be able to enjoy the benefit of the long-term lease.

The reason why this humble Representation introduced subparagraph (c) of Section 3, Mr. President, is that when we were talking about a provision of 50 years renewable for another 25 years, the truth is that, this humble Representation also had very similar reservations with those expressed by Senator Tolentino.

However, as I explained in my sponsorship speech--because this is a request made by the President of the Philippines, President Ramos, and he feels that this is very important in making his Administration a success so much so that he made this bill a priority bill--I have said that notwithstanding my own personal reservations, I was sponsoring this bill especially for execution within his Administration, to make it clear that this is something that we are providing for the Ramos Administration.

If this bill is successful in making investors come in and bringing about the jobs that are envisioned by President Ramos, then he basks in the glory of having proposed this investment enhancing bill.

On the other hand, if this bill is unsuccessful and worst, if this bill becomes an impediment to domestic investments because of unequal or of resulting undue privileges given to foreign investors, then it should also be the Ramos Administration that should answer for such failures if they will come about.

In any case, whether this will be successful or whether it will be a failure, the next administration should be able to determine its own foreign investment policy and should not be bound by this particular bill or law, if it is enacted into law.

In other words, Mr. President, if this bill is approved, let us say, today and is signed into law before the end of the year and an investor comes on January 5, 1993, and signs a long-term lease that is good for 50 years, then he will be enjoying that for 50 years. On the other hand, if an investor comes in the year 2000, then he will no longer be able to enjoy the 50-year lease?

The President: Because of that explanation, is it the understanding of the Chair that the right of foreign investors to enter into long-term lease can be exercised only within a period of five years after the approval of the Act but that all long-term lease contracts entered into within that period shall constitute vested right and shall continue beyond the five-year period of limitation year until the agreed period of the lease?

Senator Macapagal-Arroyo: That is so, Mr. President.

Senator Tañada: In other words, Mr. President, if this bill becomes a law by the end of the year, the right of the foreigners to enter into the lease contract authorized by this bill can be exercised only up to the year 1997, if I am not mistaken.

Senator Macapagal-Arroyo: That is so, Mr. President.

Senator Tañada: So beyond the period of five years after the approval of this bill, there is no longer the right being given to the foreigner to enter into this 50-year straight contract.

Senator Macapagal-Arroyo: That is so, Mr. President.

Senator Tañada: So that clarifies, Mr. President, the doubt that I had in my mind. But still I would propose the addition of another paragraph. Perhaps this could be paragraph (c), and what is now paragraph (c) could be paragraph (d).

This proposed amendment would read as follows, Mr. President: THE INVESTMENT PROJECT SHALL BE UNDERTAKEN WITHIN THREE YEARS FROM THE EXECUTION OF THE LEASE CONTRACT/AGREEMENT.

Senator Macapagal-Arroyo: That is accepted, Mr. President.

Senator Tañada: One last amendment, Mr. President.

The President: Let us first consider that amendment. Is it acceptable to the distinguished Sponsor?

Senator Macapagal-Arroyo: It is acceptable, Mr. President.

The President: Is there any objection to the amendment?

Senator Tolentino: Mr. President.

The President: Senator Tolentino is recognized.

Senator Tolentino: I would like to call attention only to the fact that under paragraph c, the implementation is within five years also from the approval of the law. Will there not be some discrepancy between that and the amendment just presented by the distinguished Gentleman from Quezon--this three years implementation?

Senator Tañada: Perhaps, we can clarify the existing paragraph c now by stating that the lease contract or agreement authorized under this Act can only be entered into within five years from the approval of this Act.

The President: The Chair is proposing that perhaps we ought to delete on line 13 the words "and implemented" because it may give the understanding that it is the lease contract itself that is to be implemented within five years and not the right to enter into a long-term lease.

Senator Tañada: Yes. So the right will have to be exercised within a period of five years from the approval of this Act.

The President: Yes. Actually, the right to enter into a long-term lease of private lands by foreign investors under this Act may be exercised only within a period of five years after its approval.

Senator Tañada: But as far as implementing the investment project is concerned, I submit that that should be undertaken within a period of three years--maybe that is still a long period--from the signing of the lease contract or agreement. Because, Mr. President, the investor may just enter into this lease contract for a long period under this bill, for a straight 50 years and then not do anything until the fifth year. I believe that would destroy the intention of the bill which is to help hasten the economic recovery of the country.

Senator Tolentino: Mr. President.

The President: Senator Tolentino is recognized.

Senator Tolentino: A reading of paragraph (c) of that section seems to show that the foreign investor may enter into contract only within five years. At the same time, the implementation must take place within five years.

There are two things there: The entry into the contract and the implementation within five years. So even if he enters into a contract on the fourth year, he must implement it within one year after the contract so that it will be within five years.

The President: That is right.

Senator Tañada: But I am thinking, Mr. President, that if he enters into the lease contract within the first year period, then he would be under obligation to undertake the project investment only at the fifth year, and he would not be under any obligation to do it earlier.

So I propose that we should also give shorter period so that the investor will be forced to right away start the investments project.

The President: May the Chair call the attention of the two Gentlemen and the Sponsor to Section 5? I think we should interrelate this together with the other provisions, particularly with the provision subject of the proposed amendment now. It says and I read:

"SEC. 5. Termination of Lease Contract. - The Secretary of Trade and Industry, upon recommendation of the Board of Investments, shall terminate any lease contract entered into under the provisions of this Act, if the leased area covered by such contract is not used for the purpose for which it was authorized, without prejudice to the right of the lessor to be compensated for any damages he may have suffered due to the gross negligence or bad faith of the lessee."

Senator Tañada: Perhaps, it is in this section that we can insert the period of three years, Mr. President--"the leased area covered by such contract is not used for the purpose for which it was authorized WITHIN A PERIOD OF THREE YEARS."

Senator Tolentino: They can be added there, perhaps.

The President: But does Senator Tañada accept the suggestion that probably, on page 2, line 13, we delete the two words "and implemented"?

Senator Tañada: Yes, Mr. President.

The President: Let us have the input of Senator Herrera.

Senator Herrera: With the permission of Senator Tañada and the Sponsor, Mr. President. May I propose an idea on how to settle this problem. What in Vietnam, where they only allow 30 years, the lease contract will start to operate on the day that the company starts to operate.

Why not put that kind of provision so that we will avoid the possibility that a foreigner may enter into a lease contract for 50 years but he will not use the land. But if we will start the contract on the day that the company starts to operate, under this bill, then we can be sure that the company will really use the land for the business it is intended to be used.

The President: I think what Senator Tañada is worried about is that a foreign investor may enter into a long-term lease, let us say, for 50 years. But 10 years had already passed, and he has not yet implemented the contract itself for the

purpose for which the lease is intended. He wants to hasten the implementation of the contract by putting that period of three years.

For example, in Ayala, if one has a lease, then there is a corresponding discount given to one if he is able to construct his building or the improvement within two or three years after the contract has been entered.

Senator Herrera: Precisely, Mr. President, this is the main idea of my proposal. The 50-year contract will start on the day he starts to operate his company. Previous to that, when he is still clearing the land, and undertaking other property work, the time spent will not be part of the 50-year; it can be a year-to-year contract.

SUSPENSION OF THE SESSION

The President: To enable the interested parties to have a unified amendment on the same subject matter, the session is hereby suspended, if there is no objection. [*There was none.*]

It was 6:12 p.m.

RESUMPTION OF THE SESSION

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

The President: The session is resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 356

Senator Romulo: Mr. President, in the meantime, I ask that we suspend consideration of Senate Bill No. 356.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 695/HOUSE BILL NO. 2212

Senator Romulo: Mr. President, we now have with us the Conference Committee Report on the disagreeing provisions of House Bill No. 2212, entitled An Act Creating the Department of Energy, Defining its Powers and Functions, and for other Purposes, and Senate Bill No. 695 with the same title, copies of which have been distributed to each of our Colleagues. For the report on this Conference Committee, I ask that the Chairman of the Senate panel, Senator Heherson Alvarez, be recognized.

The President: Senator Alvarez is recognized.

Senator Alvarez: Thank you very much, Mr. President. It is my pleasure to report to the Chamber the outcome of the deliberation of the Conference Committee composed of 12 Senators from our Chamber and 12 from the House of Representatives.

Consequently, as a result of this deliberation, we have put our signature for approval over the reconciled version coming from both Chambers. Nine have signed for the Senate and an equal number from the House of Representatives.

The President: Is there any objection to the approval of the Conference Committee Report on the disagreeing provisions of House Bill No. 2212 and Senate Bill No. 695?

Senator Webb: Mr. President.

The President: Senator Webb is recognized.

Senator Webb: May I just ask one or two questions to the Sponsor, Mr. President.

Was there any change primarily after the Conference Committee on the House version and the Senate version? Was there a glaring change as far as the bill is concerned?

Senator Alvarez: The major thrust of the bill was drawn primarily from the way in which it was presented by the Senate version. However, the package on how the new department will be structured and the appropriations for it as well came from the House version.

Senator Webb: Mr. President, the Gentleman mentioned about the appropriation feature. What is the difference now between the House version and the Senate version?

Senator Alvarez: We have pegged the appropriation at \$200 million. But what came out finally would be more than this amount as proposed by the House. The House contingent felt that this is a big department, it had an awesome responsibility, so they budgeted an amount much bigger than \$200 million. It would amount to about \$250 million.

Senator Webb: That is the only component, Mr. President, particularly on the appropriation feature. But the rest were primarily on the Senate version.

Senator Alvarez: Yes. Primarily, the appropriation was a contribution of the House. They did make some alteration on the power of the Secretary over the attached agencies.

Senator Webb: Yes. I was just going to that, Mr. President. On the particular function of the Secretary, were there any additional powers that the House version bestowed compared to that of the Senate version?

Senator Alvarez: They sought to alter the power of the Secretary as regards to attached agencies. Under the House version, the power of the Secretary would only be supervision, whereas, our proposed version was supervision and control. The House had sought to delete the word "control", so that as it appears now in this measure, it would only be a power of supervision over the attached agencies.

However, Mr. President, the House has acceded to our version of the bill which gives the Secretary the power to recommend for the reorganization of the Board of Directors of the different agencies, and for the Secretary to become the ex officio Chairman of the Board likewise of these different agencies.

Senator Webb: It pains me to say that I am happy to note that in that particular provision, though the House version did win, I was really in favor of just purely supervisory functions. I am glad to note that the control was taken out of the particular duties of the Secretary.

Thank you very much, Mr. President.

Senator Alvarez: Thank you.

The President: Any further questions?

APPROVAL OF CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 695/HOUSE BILL NO. 2212

Is there any objection to the approval of this Conference Committee Report? [*Silence*] There being none, the same is hereby approved.

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

The Conference Committee on the disagreeing provisions of House Bill No. 2212, entitled

AN ACT CREATING THE DEPARTMENT OF
ENERGY, DEFINING ITS POWERS AND
FUNCTIONS, AND FOR OTHER PURPOSES

and Senate Bill No. 695, entitled

AN ACT CREATING THE DEPARTMENT OF

ENERGY, DEFINING ITS POWERS AND
FUNCTIONS, AND FOR OTHER PURPOSES,

having met, after full and free conference, have agreed to recommend, and do hereby recommend, to their respective Houses, the approval of the consolidated House Bill No. 2212 and Senate Bill No. 695, entitled

AN ACT CREATING THE DEPARTMENT OF
ENERGY, RATIONALIZING THE
ORGANIZATION AND FUNCTIONS OF
GOVERNMENT AGENCIES RELATED TO
ENERGY, AND FOR OTHER PURPOSES.

Approved,

CONFEREES ON THE PART OF THE
SENATE

(Sgd.) HEHERSON T. ALVAREZ
Chairman
Senate Panel

(Sgd.) JOHN H. OSMEÑA

(Sgd.) ALBERTO G. ROMULO

(Sgd.) ERNESTO M. MACEDA

(Sgd.) EDGARDO J. ANGARA

(Sgd.) RAUL S. ROCO

(Sgd.) RODOLFO G. BIAZON

(Sgd.) VICENTE C. SOTTO III

(Sgd.) JOSE D. LINA, JR.

(Sgd.) TEOFISTO T. GUINGONA, JR.

(Sgd.) LETICIA R. SHAHANI

(Sgd.) GLORIA MACAPAGAL-ARROYO

CONFEREES ON THE PART OF THE
HOUSE

(Sgd.) DANTE O. TINGA
Chairman
House Panel

(Sgd.) LICURGO P. TIRADOR
 (Sgd.) JEROME V. PARAS
 (Sgd.) RAUL V. DEL MAR
 (Sgd.) RENATO A. YAP
 (Sgd.) EDUARDO R. GULLAS
 (Sgd.) FELICIANO C. PAYUMO
 (Sgd.) DAVID A. PONCE DE LEON
 (Sgd.) RODOLFO B. ALBANO, JR.
 (Sgd.) EMIGDIO S. TANJUATCO, JR.
 (Sgd.) HERMINIO S. AQUINO
 (Sgd.) PACIFICO M. FAJARDO

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

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Department of Energy Act of 1992."

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State: (a) to ensure a continuous, adequate and economic supply of energy with the end in view of ultimately achieving self-reliance in the country's energy requirements, through the integrated and intensive exploration, production, management and development of the country's indigenous energy resources, and through the judicious conservation, renewal and efficient utilization of energy to keep pace with the country's growth and economic development and taking into consideration the active participation of the private sector in the various areas of energy resource development; and (b) to rationalize, integrate and coordinate the various programs of the government towards self-sufficiency and enhance productivity in power and energy without sacrificing ecological concerns.

SEC. 3. *Definition of Terms:*

a) Energy Projects - shall mean activities or projects relative to the exploration, extraction, production, importation-

exportation, processing, transportation, marketing, distribution, utilization, conservation, stockpiling or storage of all forms of energy products and resources;

b) Board - shall mean the Energy Regulatory Board.

SEC. 4. *Department of Energy.* - To carry out the above-declared policy, there is hereby created the Department of Energy, hereinafter referred to as the Department, which shall prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relating to energy exploration, development, utilization, distribution, and conservation.

SEC. 5. *Powers and Functions.* - The Department shall have the following powers and functions:

(a) Formulate policies for the planning and implementation of a comprehensive program for the efficient supply and economical use of energy consistent with the approved national economic plan and with the policies on environmental protection and conservation and maintenance of ecological balance, and provide a mechanism for the integration, rationalization and coordination of the various energy programs of the Government;

(b) Develop and update the existing Philippine Energy Program which shall provide for an integrated and comprehensive exploration, development, utilization, distribution and conservation of energy resources, with preferential bias for environment-friendly, indigenous and low-cost sources of energy. The program shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry, and reduction of dependency on oil-fired plants. Said program shall be updated within nine (9) months from the effectivity of this Act and submitted to Congress within ten (10) days from its completion and not later than the fifteenth day of September every year thereafter;

(c) Establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of energy resources of all forms, whether conventional or non-conventional;

(d) Exercise supervision and control over all government activities relative to energy projects in order to attain the goals embodied in Section 2 of this Act;

(e) Regulate private sector activities relative to energy projects as provided for under existing laws: *Provided, That* the Department shall endeavor to provide for an environment

conducive to free and active private sector participation and investment in all energy activities.

At the end of four (4) years from the effectivity of this Act, the Department shall, upon approval of the President, institute the programs and timetable of deregulation of appropriate energy projects and activities of the energy industry;

(f) Assess requirements of, determine priorities for, provide direction to, and disseminate information resulting from energy research and development programs for the optimal development of various forms of energy production and utilization technologies;

(g) Formulate and implement programs, including a system of providing incentives and penalties, for the judicious and efficient use of energy in all energy-consuming sectors of the economy;

(h) Formulate and implement a program for the accelerated development of non-conventional energy systems and the promotion and commercialization of its applications;

(i) Devise ways and means of giving direct benefit to the province, city or municipality especially the community and people affected, and equitable preferential benefit to the region that hosts the energy resource and/or the energy generating facility; *Provided, however,* That the other provinces, cities, municipalities or regions shall not be deprived of their energy requirements;

(j) Encourage private enterprises engaged in energy projects, including corporations, cooperatives and similar collective organizations, to broaden the base of their ownership and thereby encourage the widest public ownership of energy-oriented corporations;

(k) Formulate such rules and regulations as may be necessary to implement the objectives of this Act; and

(l) Exercise such other powers as may be necessary or incidental to attain the objectives of this Act.

CHAPTER II

THE DEPARTMENT PROPER

SEC. 6. *Composition* - The Department proper shall be composed of the Office of the Secretary, the Offices of the Undersecretaries and Assistant Secretaries, and the bureaus and services of the Department.

SEC. 7. *Office of the Secretary*. - The Office of the Secre-

tary shall consist of the Secretary and his immediate staff.

SEC. 8. *The Secretary*. - The Secretary shall be appointed by the President, subject to confirmation by the Commission on Appointments.

No officer, external auditor, accountant or legal counsel of any private company or enterprise primarily engaged in the energy industry shall be eligible for appointment as Secretary within two (2) years from his retirement, resignation or separation therefrom.

The Secretary shall have the following functions:

a) Establish policies and standards for the effective, efficient and economical operation of the Department in accordance with the programs of the Government;

b) Exercise direct supervision and control over all functions and activities of the Department, as well as all its officers and personnel;

c) Devise a program of international information on the geological and contractual conditions obtaining in the Philippines for oil and gas exploration in order to advance the industry;

d) Create regional offices and such other service units and divisions as may be necessary;

e) Create regional or separate grids as may be necessary or beneficial; and

f) Perform such other functions as may be necessary or proper to attain the objectives of this Act.

The Secretary shall be an ex officio member of the Board of the National Economic and Development Authority (NEDA). He shall also be a member of the NEDA's Committee on Infrastructure (INFRACOM), and the Investment Coordinating Council (ICC). For this purpose, the provision of Executive Order No. 292, otherwise known as the Administrative Code of 1987, relative to the creation and organization of the NEDA and its component agencies and offices are hereby modified accordingly.

The Secretary shall also be a member of the body authorized to formulate, prescribe or amend the necessary guidelines for the financing, construction, operation and maintenance of infrastructure projects by the private sector, under Republic Act No. 6957, otherwise known as the Build-Operate-Transfer Law.

SEC. 9. *The Undersecretaries.* - The Secretary shall be assisted by three (3) Undersecretaries who shall be appointed by the President upon the recommendation of the Secretary. They shall have the powers and functions as provided for in Section 10, Chapter 2, Book IV of the Administrative Code of 1987.

The Offices of the Undersecretaries shall consist of the Undersecretaries and their respective immediate staff.

SEC. 10. *Assistant Secretaries.* - The Secretary shall also be assisted by three (3) Assistant Secretaries, one for Operations, one for Policy and Programs, and another for Administrative Services. The Assistant Secretaries shall be appointed by the President upon the recommendation of the Secretary.

SEC. 11. *Qualifications.* - No person shall be appointed Secretary, Undersecretary or Assistant Secretary of the Department unless he is a citizen and resident of the Philippines, of good moral character, and of proven competence in any of the following fields: a) energy or utility economics; (b) public administration; (c) physical or engineering sciences; (d) management; or (e) law.

SEC. 12. *Bureau And Services.* - Subject to the power of the Secretary, with the approval of the President, to reorganize, and redefine the functions of its bureaus and services for the effective discharge of the powers and functions of the Department under this Act, the Department shall have the following bureaus and services; Energy Resource Development Bureau; Energy Utilization Management Bureau; Energy Industry Administration Bureau; Energy Planning and Monitoring Bureau; and Administrative Support Services.

The bureaus and services shall have the following powers and functions:

a) Energy Resource Development Bureau. - 1) Assist in the formulation and implementation of policies to develop and increase domestic supply of local energy resources like fossil fuels, nuclear fuels and geothermal resources;

2) Assist in the formulation of sectoral programs and plans relative to the exploration, development and extraction of local energy resources, and implement, monitor and regularly review said programs;

3) Conduct energy research and studies in support of the aforementioned activities;

4) Provide consultative training and advisory

services to practitioners and institutions in the areas of regulated activities; and

5) Assist in the formulation of financial and fiscal policies, rules, guidelines and requirements relative to the operations of the service contractors, and implement and enforce said policies.

b) Energy Utilization Management Bureau. - 1) Assist in the formulation and implementation of policies for the efficient and economical transformation, conversion, processing, refining, marketing, distribution, transportation and storage of petroleum, coal, natural gas, geothermal and other non-conventional energy resources such as wind, solar, biomass and others, and ensure their efficient and judicious utilization;

2) Monitor sectoral energy consumption and conduct energy audits, technical training, energy management advisory services, and technology application projects on efficient energy utilization;

3) Develop, promote and commercialize applications of biomass, solar, small hydro, wind, wood and charcoal and other non-conventional energy systems including new and more efficient and economic transformation, conversion, processing, refining, marketing, distribution, transportation and storage technologies for conventional energy resources;

4) Assist in the formulation of an integrated rural energy program to effectively address the needs of rural development and environmental programs, and implement, monitor and regularly review said program;

5) Assist in the formulation of an operational plan for the allocation of oil, fuel and energy sources in the event of the declaration of critically low-energy supply provided for in Section 25 of this Act;

6) Provide information on energy technology and develop middle and long-term energy technology development strategies in cooperation with the Department of Science and Technology;

7) Monitor the implementation of energy projects in coordination with the Department of Environment and Natural Resources to ensure compliance with prescribed environmental standards;