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TABLE OF CONTENTS

MOTION OF SENATOR LEVISTE..... 4
(Reference of Business Deferred)

BILL ON THIRD READING..... 4-18
(S. No. 2104 ■ Absentee Voting Act of 2002)

QUESTION OF PRIVILEGE OF SENATOR OSMEÑA (S)..... 18-26
(The Serial Scams at Napocor-Transco)

Interpellations by Senators Angara and Osmeña (J)

MANIFESTATION OF THE CHAIR..... 53-54
(Referral of Sen. Sergio Osmeña's Speech to
Government Corporations and Public Enterprises
Committee as Primary Committee; and Blue Ribbon
as Secondary Committee)

BILL ON SECOND READING (Continuation)..... 54-104
(S. No. 2116 ■ The Special Purpose Asset Vehicles
(SPAV) Act of 2002)

Sponsor ■ Senator Recto

Amendments by Senators Arroyo, Osmeña (J), Estrada,
Magsaysay, and Recto

(Consideration Suspended)

STATEMENT OF SENATOR PIMENTEL..... 68-70
(Beneficiaries of S. No. 2116 Be Made of Record
for Transparency)

MANIFESTATION OF SENATOR PIMENTEL..... 71-95
(That the List of Defaulting Borrowers Be Submitted
to the Secretariat and Be Made Part of the
Debate)

| | |
|---|---------|
| CONFERENCE COMMITTEE ON S. NO. 1855/H. NO. 4871..... | 105-106 |
| (Barangay Business Enterprises Act of 2001) | |
| MANIFESTATION OF SENATOR FANGILINAN..... | 106 |
| (Bicameral Conference to Start Tomorrow, Wednesday, October 23, 2002) | |
| CONFERENCE COMMITTEE ON S. NO. 2104/H. NO. 3570..... | 107 |
| (Absentee Voting Act of 2002) | |
| PARLIAMENTARY INQUIRY OF SENATOR FANGILINAN..... | 107-109 |
| (How Can Somebody Who Voted Against a Measure Be a Member to a Bicameral Conference Committee) | |
| MANIFESTATION OF SENATOR FANGILINAN..... | 109 |
| (To Withdraw His Previous Motion of Membership of Majority to the Bicameral Conference on S. No. 2104) | |
| BILL ON SECOND READING (<i>Continuation</i>)..... | 109-117 |
| (S. No. 2130 ■ Dual Citizenship Act) | |
| Sponsor ■ Senator Drilon | |
| Committee Amendments | |
| (Consideration Suspended) | |
| MANIFESTATION OF SENATOR DRILON..... | 116 |
| (Directing the Secretariat to Prepare a Clean Copy of S. No. 2130) | |
| MOTIONS OF SENATOR LEVISTE..... | 117-118 |
| (To Amend Sec. 13, Par. 15 of the <i>Rules</i> Increasing Membership of the Committee on Justice and Human Rights from 7 to 9 Members) | |
| (Senator Villar as Additional Member to Committee on Justice and Human Rights) | |
| (Transfer of Referral of S. No. 2084 from the Committee on Education, Arts and Culture Primarily to the Committee on Justice and Human Rights) | |

| | |
|---|---------|
| REFERENCE OF BUSINESS..... | 118-121 |
| MESSAGE FROM THE HOUSE OF REPRESENTATIVES..... | 118-119 |
| BILLS ON FIRST READING (S. Nos. 2391-2392)..... | 119-120 |
| RESOLUTION (S. Ct. Res. No. 10)..... | 120-121 |

TUESDAY, OCTOBER 22, 2002

OPENING OF THE SESSION

At 3:47 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The 28th session of the Second Regular Session of the Twelfth Congress is hereby called to order.

Let us all stand for the opening prayer of Sen. Renato L. Companero Cayetano to be read on his behalf by Sen. Juan M. Flavier.

Sen. Juan M. Flavier is recognized.

Everybody rose for the prayer.

PRAYER

Senator Flavier. This is the prayer prepared by Sen. Renato L. Companero Cayetano.

Heavenly Father, the source of life and wisdom, we praise, worship and glorify Thee because of the manifold spiritual, material and physical blessings You have bestowed upon us. Thank you too, for guiding us in crafting the laws and resolutions we deem as needed to meet and overcome the difficult times our people find themselves in. We realize and acknowledge that without You we can do nothing. And unless we trust You to mold us as clay in Your mighty hands we cannot become Your suitable vessels to bless others. We therefore beseech You to hold us in Your mighty hands and regenerate our hearts by faith so that we might truly become the children of light instead of

darkness, of love instead of hatred, and betterment instead of bitterness.

Heavenly Father, we also pray that Your Holy Spirit always steer and guide our debates and discussion in the session hall as well as in committee hearings, so that only what is according to Thy will, only what is important and needful, and only what may produce good for the people we serve, may be enacted in the end. Lord, unify us in the face of divisive personal and/or political agenda, for only in unity can we achieve victory over what might be the greatest scourge of humanity now - global terrorism. We ask this of You because only You, not the super powers, can effectively put an end to these. Yes, we can formulate laws, rules and regulations to govern this matter but all these, though intended to minimize loss of lives and property, will be meaningless in the face of determined bombers and criminals unless You intervene. In the end, only You indeed can obliterate these agents of mayhem. Teach us to see that behind the dark clouds the sun still shines, so that we might go on with our given tasks, unburdened by unwarranted fears and anxieties.

Thank You so much dear Lord. In the mighty and glorious name of our Lord and Savior, Jesus Christ, we pray. Amen.

The President. The Secretary will please call the roll.

ROLL CALL

The Acting Secretary [Atty. Reyes].
reading:

Senator Edgardo J. Angara.....Present
 Senator Teresa Aquino-Oreta.....Present
 Senator Joker P. Arroyo.....Present
 Senator Robert Z. Barbers.....Absent
 Senator Rodolfo G. Biazon.....Present
 Senator Renato L. *Companero* Cayetano.....Absent
 Senator Noli "Kabayan" de Castro.....Present
 Senator Luisa "Loi" P. Ejercito Estrada...Present
 Senator Juan M. Flavier.....Present
 Senator Gregorio B. Honasan.....Present
 Senator Robert S. "JAWO" Jaworski.....Present
 Senator Panfilo M. Lacson.....Present
 Senator Loren B. Legarda Leviste.....Present
 Senator Ramon B. Magsaysay Jr.....Present
 Senator John H. Osmena.....Present
 Senator Sergio R. Osmena III.....Present
 Senator Francis N. Pangilinan.....Present
 Senator Aquilino Q. Pimentel Jr.....Present
 Senator Ralph G. Recto.....Present*
 Senator Ramon B. Revilla.....Present*
 Senator Vicente C. Sotto III.....Present
 Senator Manuel B. Villar Jr.....Present*
 The President.....Present

The President. There are 18 senators present. The Chair declares the presence of a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Leviste. Mr. President, I move that we dispense with the reading of the *Journal* of the 27th Session, October 21, 2002, and consider it approved.

*Arrived after roll call

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

Senator Leviste. Mr. President. I move that we proceed to the Reference of Business.

The President. To avail of the presence of our colleagues, there is a bill on Third Reading. Maybe we can proceed with that first and defer the reading of the Reference of Business.

MOTION OF SENATOR LEVISTE
(Reference of Business Deferred)

Senator Leviste. May I therefore move that we proceed to the Reference of Business at the latter end of the session.

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

BILL ON THIRD READING
S. No. 2104 - Absentee Voting Act of 2002

Senator Leviste. Mr. President. I move that we vote on Third Reading on Senate Bill No. 2104. Copies of the bill were distributed to the members on October 14, 2002 complying with the three-day rule.

The President. Is there any objection?
[Silence] There being none, voting on Third Reading on Senate Bill No. 2104 is now in order.

The Secretary will please read only the title of the bill.

The Acting Secretary. Senate Bill No. 2104, entitled

AN ACT PROVIDING FOR A SYSTEM OF
OVERSEAS ABSENTEE VOTING BY
QUALIFIED CITIZENS OF THE
PHILIPPINES ABROAD, APPROPRIATING
FUNDS THEREFOR, AND FOR OTHER
PURPOSES

The President. We shall now vote on the
bill and the Secretary will call the roll.

The Acting Secretary. Senators

| | |
|-----------------------|------------|
| Angara..... | Yes |
| Aquino-Oreta..... | Yes |
| Arroyo..... | No |
| Barbers..... | |
| Biazon..... | Yes |
| Cayetano..... | |
| De Castro..... | Yes |
| Ejercito Estrada..... | Yes |
| Flavier..... | Yes |
| Honasan..... | Yes |
| Jaworski..... | Yes |
| Lacson..... | Yes |
| Legarda Leviste..... | Yes |
| Magsaysay Jr..... | Yes |
| Osmeña (J)..... | Yes |
| Osmeña (S)..... | Yes |
| Pangilinan..... | Yes |
| Pimentel Jr..... | Yes |
| Recto..... | Abstention |
| Revilla..... | |
| Sotto III..... | Yes |
| Villar Jr..... | |
| The President..... | Yes |

APPROVAL OF S. NO. 2104 ON THIRD READING

The President. With 17 affirmative votes,
one negative vote, and one abstention, Senate
Bill No. 2104 is approved on Third Reading.

Senator Angara is recognized to explain his vote.

Senator Recto. Mr. President.

The President. Sen. Ralph G. Recto is recognized.

Senator Recto. With the permission of the Chair and the Body, my vote was recorded. I think in the affirmative.

The President. That is correct.

EXPLANATION OF VOTE OF SENATOR RECTO

Senator Recto. My vote is to abstain from voting because I wanted some amendments to be made to the bill so that later on, the OFWs would also be able to vote for their local chief executives as well.

The President. All right, place on record the abstention of Senator Recto. The vote therefore is....

Senator Villar. Mr. President.

The President. Sen. Manuel B. Villar Jr. is recognized.

Senator Villar. Mr. President, I just came in from outside the office. I understand that the voting is already finished. Anyway, I would like to say on record that I am for this bill. I was not able to vote but I am for this bill and certainly this bill will go a long way in helping our overseas Filipinos.

Thank you, Mr. President.

The President. The manifestation of Senator Villar is noted.

In view of the manifestation of Senator Recto, the final result of the voting on Third Reading is as follows: 17 affirmative votes; one negative vote; and one abstention. The approval is still in order and is so declared.

Sen. Edgardo J. Angara is now recognized for the explanation of his vote.

EXPLANATION OF VOTE OF SENATOR ANGARA

Senator Angara. Thank you, Mr. President. I would not want to miss this opportunity to explain my vote on this historic measure.

Mr. President, today we have made history.

After nearly 15 long frustrating years, the Absentee Voting Bill will finally be passed. With its passage, the burning hopes of more than 7 million Filipinos to participate in charting the future of their own country long denied from them, will now be realized.

Today's approval culminates a little over a year of tedious and meticulous work, consisting of long hours spent on extensive consultations, both here and abroad, committee hearings and plenary debates. The Joint Committees of Constitutional Amendments, Revision of Codes and Laws; Foreign Relations; and Finance purposely incorporated the entire records of the Ninth, Tenth, and Eleventh Congresses to expedite the consideration of this long overdue measure. But more than ever, the initiative of the committees to gather bicameral and bipartisan support spared the bill from suffering the same fate that befell it in the previous four Congresses.

As it is, the bill showcases the overwhelming involvement and support of our colleagues in this august Chamber, as fully reflected in the quality of this legislation.

Without doubt, adequate safeguards and security features to guard against the perpetration of electoral fraud are in place. Some may doubt that it is complete and adequate, but this law is not a perfect law as no law ever passed by any parliamentary body is ever perfect. But whatever imperfections it may still have is made up for with our trust in the absentee electorate, who will fight hard to vigilantly protect their ballot in the same breath that they fought hard to have this law passed.

The absentee voters will be a welcome infusion to the traditional and, I am sad to say, dirty politics that pervades our electoral system. Our overseas Filipinos are financially secure and cannot--I would like to believe--easily be swayed by the lure of money, personalities or popularity. Their vote is centered on issues, on principled positions and politics, on the strength of platform and performance. The absentee voters will surely change the dynamics of Philippine elections and will definitely breathe the much-needed fresh gust of wind into the stale and polluted air that is Philippine politics.

It is for these reasons that I vote to affirm this landmark measure.

Thank you, Mr. President.

The President. Thank you. Can we first recognize Sen. Joker P. Arroyo, and then afterwards, the Minority Leader?

Senator Arroyo. Mr. President, may I explain my vote.

The President. Please proceed, Senator Arroyo.

EXPLANATION OF VOTE OF SENATOR ARROYO

Senator Arroyo. Mr. President, I cast a negative vote on this bill not because I want to vote against it--because no senator or congressman can vote against this measure--but because the Constitution requires that Congress must enact a law that would provide for a system of absentee voting. But this bill, as finally approved, is fraught with dangers.

This is a bill intended with good intentions--to enfranchise our compatriots abroad. But I think that the bill was hastily done. It could have been improved so that it would meet the requirements of the Constitution which says that the secrecy and the sanctity of the voting must be ensured.

Because of that, Mr. President, as I have said, this is the kind of bill where the overseas voter--his face will never be seen from the beginning to the end. This is a kind of bill where the voting will take place without ever one's...where the overseas voter's face will not be seen by anyone.

How in the world, Mr. President, can a voter vote when his face has never been seen? This is a faceless voting bill.

In fact, a voter will apply to be an absentee voter by mail; his face will not be seen. He will ask for a ballot by mail; his face will not be seen. He will vote; his face will not be seen.

Mr. President, not even in Soviet Union is that thing done. Always, a person's face is seen.

So because of that, it is my respectful submission, Mr. President, that our duty to uphold the Constitution cannot be done in such a way that we also assault the Constitution.

Thank you very much, Mr. President.

The President. Sen. Vicente C. Sotto III is recognized.

EXPLANATION OF VOTE OF SENATOR SOTTO

Senator Sotto. Thank you.

Mr. President, I would have wanted to explain my vote during the nominal voting, but now I feel it is anti-climactic although it is still very important, may I just be allowed to submit the explanation of my vote inasmuch as this is another dream for this representation, having filed this bill as early as August 20, 1992, during the Ninth Congress.

So with that and my congratulations to the sponsor, may I just be allowed to submit the written explanation of my vote, which is in favor, of course.

The President. Yes. The Secretary will record the written explanation of Senator Sotto as if the same was delivered--an affirmative vote.

The following is the written explanation of vote of Senator Sotto:

It is a distinct honor and privilege to be a member of the Senate as it considers for approval the Absentee Voting bill. Due recognition is in order to Sen. Edgardo J. Angara, Chairman of the Senate Committee on Constitutional Amendments, Revision of Codes and Laws who sponsored the measure.

With much needed reforms in our country's electoral process, this representation first filed and introduced the Absentee Voting bill as early as last August 20, 1992 during the 9th Congress. In fact, this was one of the earliest bills that this representation filed and introduced as a neophyte Senator. Then Senate Bill No. 653 sought to provide a mechanism for the registration of our *kababayans* abroad in order for them to exercise their right to vote.

The legislative wheel grinds slowly but it is no cause for worry. The passage of this bill 10 years later is the realization of a dream for this representation. Today is considered the culmination of all of our efforts and it shows our deep commitment to our overseas Filipino heroes.

The history of democracy is measured in the expanding power of the right to vote. The women had to fight for it. The slaves were denied it, but our citizens abroad whom we call modern heroes should be allowed to vote for the leaders of this country. I vote yes for Senate Bill No. 2104 under Committee Report No. 39.

Sen. John H. Osmeña is recognized.

EXPLANATION OF VOTE OF SENATOR OSMENA (J)

Senator Osmeña (J). Yes, Mr. President.

I would like to make a few remarks and reserve a lengthy explanation of my vote to be submitted to the Secretariat.

But for today, Mr. President, let me say that this is landmark legislation that will change the character of our electorate and the quality of those elected.

Freed from the politics, Mr. President, of guns and gold and hopefully the blinding glare of floodlights, we have an opportunity to look forward to their contributing to a new era in our political history.

Thank you, Mr. President.

The following is the written explanation of vote of Senator Osmeña (J):

Insert

The President. All right.

Senator Leviste. I move that we recognize Senator Pimentel for the explanation of his vote.

The President. Sen. Aquilino Q. Pimentel Jr. is recognized.

EXPLANATION OF VOTE OF SENATOR PIMENTEL

Senator Pimentel. Mr. President, with the permission of the Chamber, I introduced into the *Record* yesterday an explanation of my vote because I thought that it was going to be

yesterday that we would vote upon this measure.

Nonetheless, let me just advert to some of the statements of Senator Arroyo when he voted against this bill by saying that it has been hastily done. I do not think that a bill that has been pending for the last 15 years could ever be said to have been hastily done, Mr. President.

Also the matter of the so-called "allowing faceless voters to vote" may not really take place considering, Mr. President, that there is a provision in the bill for the enactment of the implementing rules and regulations by the Commission on Elections, which rules will take care of ensuring that only genuine, real, alive Filipinos would be entitled to vote under the bill that we are now discussing.

Therefore, it is not quite correct to say that there will be no means at all to verify the existence and the identity of the person wanting to exercise his right to vote even if he tries to do it by electronic means, Mr. President, starting from applying for the right to vote up to the time that he actually casts his vote.

Now, let me emphasize, Mr. President, among other things, that the vote we are giving to the overseas voters actually makes them now sovereign citizens of the land even if they are residing abroad. Because it is not the fact that they are sending money home that makes citizens of this land; it is the fact that they are entitled to choose the leaders of the country. Because without the vote there is no legal nexus, there is no legal bond, no legal connection that makes the overseas workers sovereign citizens of this country.

If we do not allow them to vote, Mr. President, they would, in effect, become a wandering Jew, a rootless person, who cannot claim any home state for his or her own.

Therefore, Mr. President, I would like to say that the Senate version enables the overseas workers to vote anywhere in the world where he might find himself to be--provided that he applies pursuant to law and within the time allotted by law--and exercise that right to vote.

Now, I would like to also emphasize, Mr. President, that there is some move to remove the power of the overseas voters to elect even their party-list candidate. I think it is a serious error on the part of anyone to try to do that because the overseas Filipino is entitled to choose his party-list representative at least for the reason that he must be entitled to representation in the House of Representatives.

And of course, as pointed out by Senator Recto, the bill does not, for the moment, allow voting for congressmen as well as local government officials for the simple reason that this is a first step towards enfranchising the overseas workers so that we limit only the right to vote to the president, vice president, senators and party-list representatives.

To do otherwise,--to include the congressmen as well as the local government officials, Mr. President,--would create an administrative nightmare and would probably derail the proper implementation of this law.

With that statement, Mr. President, I would like to finally close this brief intervention by saying that it is not the

Commission on Elections that can make the elections clean. The Commission on Elections has been with us since time immemorial as far as I can recall, but always, elections in this country have been characterized by fraud and anomalies. Only the electorate themselves, acting together in a conscientious manner, can make the elections clean. And I believe that because this will be the first time,--assuming that we get this implemented for the elections in 2004--the overseas voters will see to it that the elections will be held clean and free of any anomaly by their own action, banding together and working together to ensure that there are no shenanigans that will be allowed in the exercise of their vote for 2004. And this is especially true because this will be the first time that some estimated 5,000,000 Filipino overseas voters will exercise this right of suffrage.

For that reason, Mr. President, I vote in favor of this bill because it is the right thing to do.

Thank you, Mr. President.

The President. Thank you.

EXPLANATION OF VOTE OF SENATOR LEVISTE

Senator Leviste. Mr. President, may I be allowed to explain my vote briefly.

Today is a monumental event in the history of Congress. Finally, we are able to enact a law providing for a system of absentee voting by qualified Filipinos abroad, a goal which was initiated in the past two Congresses, and which the Senate now is privileged to enact into a law.

The absentee voting bill in its present form is a product of conscientious study, I believe, intellectual work, extensive consultations, broad legislative debates and the unwavering intent to afford the right of suffrage to Filipinos abroad, who remain an integral part of our community, despite their physical absence, not only because of their links with their family but more importantly, the significant and essential role they keep in maintaining the Philippine economy afloat with their remittances.

As I cast my vote in favor of the Absentee Voting bill, allow me to once again reiterate that this measure shall reform, to a great extent, the Philippine electoral process by allowing the participation of Filipinos abroad, a sector that is industrious, courageous, informed and educated--the missing middle class vote in Philippine politics--and a sector whose vote cannot be bought and who will not allow themselves to be coerced or harassed.

Like other citizens of nations that are ingrained with robust democratic institutions, we Filipinos attach great importance to the power of our votes. We consider suffrage as an armor against an indifferent or corrupt government. We view the electoral process as our basic source of power over political leadership--a power to help shape the future of our country.

No Filipino, therefore, should be deprived of this right and of this privilege to vote. And we, at the Senate, are duty-bound to advance and enhance this sacred right in every reasonable way.

I therefore join our esteemed colleagues in voting for the passage on Third Reading of Senate Bill No. 2104.

The President. All right.

Senator Leviste. On a point of personal and collective privilege, Mr. President, I move that Sen. Sergio R. Osmeña III be recognized.

Before that, Mr. President, Sen. Francis N. Pangilinan wishes to explain his vote.

The President. Sen. Francis N. Pangilinan is recognized.

EXPLANATION OF VOTE OF SENATOR PANGILINAN

Senator Pangilinan. Thank you, Mr. President. Thank you, Majority Leader.

I would like to explain my vote.

I vote in favor of this measure. Indeed, a landmark piece of legislation and, indeed, has the potential of changing the shape of politics in our country for the better.

Potential, I say, because I think the concern now is addressed to the Commission on Elections and the Executive department. It will shape Philippine politics for the better if implemented correctly. It may shape Philippine politics for the worse if implemented incorrectly, Mr. President.

The fear here, Mr. President, is that we will find ourselves in a situation wherein the entire electoral process is undermined if, as mentioned earlier, the 5,000,000 votes is not canvassed and counted correctly.

I vote in favor but I vote also, and put it on record, Mr. President, that the Commission on Elections is hard put to implement this particular law effectively because we want to shape Philippine politics for the better with this new overseas absentee voter's law.

Thank you, Mr. President.

The President. Sen. Sergio R. Osmeña III is now recognized on a question of....

Senator Leviste. Before that, Mr. President, Sen. Ramon B. Revilla wishes to explain his vote.

The President. Sen. Ramon B. Revilla is recognized.

EXPLANATION OF VOTE OF SENATOR REVILLA

Senator Revilla. Mr. President, though my vote was not counted because I came in after the voting, I would like to put it into the *Record* that I am in favor of the measure.

Thank you, Mr. President.

The President. Thank you, Senator Revilla.

The Chair now recognizes Sen. Sergio R. Osmeña III.

QUESTION OF PRIVILEGE OF SENATOR OSMEÑA (S) (The Serial Scams at Napocor-Transco)

Senator Osmeña (S). Mr. President, allow me to take leave of my distinguished colleagues to speak on a matter of personal and collective privilege.

Nineteen months ago, I delivered a similar speech on this very same Floor entitled "Behest Agreement Mutates Into Grotesque Contract." I had sought then to update the members of this Chamber on the latest anomalies attending the Build-Rehabilitate-Operate-Transfer (BROT) contract for the CBK hydro complex, a contract signed between Napocor and an Argentine firm known as IMPSA.

In several hearings conducted by various Senate committees in 1998, in 1999 and 2000, until we were overtaken by the impeachment trial, Napocor officials were less than candid in their responses to senator's questions on the Napocor IMPSA contract to rehabilitate and expand the Caliraya-Botocan-Kalayaan, better known as CBK hydropower complex in Laguna province.

Much has been written about this many-splendored IPP baby conceived by Ramos, gestated during the Erap administration, and delivered by Gloria.

In the words of Luz Rimban of the Philippine Center for Investigative Journalism, "Of all the contracts the government has signed with independent power producer (IPP's), the deal with IMPSA provides the most dramatic example of how power contractors have milked millions from Napocor." She made a mistake. She must have meant billions. Or better still, tens of billions.

The PCIJ report goes on to expose another scam, the latest one, arising from the IMPSA-CBK-Napocor deal which has turned out to be a serial nightmare for the Filipino people.

We tend to blame the over-purchase of overpriced contracts on Fidel Ramos and his

appointees. But these and other scams at Napocor could not have been carried out without the active participation and connivance of a handful of high, well-placed officials at Napocor and the Department of Energy. This clique has been responsible for a substantial portion of the PFA charges now being paid by the Filipino people. And its members have been able to escape blame up to now.

Let me then publicly identify these crooks: Asisclo T. Gonzaga, president of Transco; Rolando Quilala, president of Napocor; Alberto L. Pancog, corporate secretary of Napocor; and Engr. Marcelino R. Abesamis, CBK project manager.

Let me backtrack a little to place everything in perspective. In September 1999, even when the mother contract of the IMPSA project had not yet been approved, then Napocor president Federico Puno signed a supplemental agreement with IMPSA.

The supplemental agreement provided for the supposed early major rehabilitation of the Kalayaan I Plant of the CBK complex, way ahead of the schedule stipulated in the agreement, which is 2004. Incidentally, Mr. President, Units 1 and 2 of Kalayaan had just been rehabilitated in 1992 and 1997. But Puno immediately allowed the execution of this supplemental agreement.

This supplemental agreement suffers from two fatal infirmities.

First, it was executed when the main agreement, the main BROT Agreement, which it purports to supplement, was not yet in effect due to IMPSA's failure to achieve financial closing for the project. In fact, at that

time, Mr. President, IMPSA was liberally given seven deadline extensions for achieving financial closing but failed in all of them-- stretching over three years. Obviously, then the supplemental agreement had nothing to supplement at all.

Moreover, Mr. President, there can be no supplemental agreement when there is no effective mother agreement. Any legal mind can tell us that the Civil Code provides that there can be no accessory contract without the principal contract. For this alone, the supplemental agreement should not have been executed because it would not have taken a valid existence, as it is invalid now. This, too, is the finding of the Inter Agency Committee tasked by the EPIRA law to review all IPP contracts.

Second, the justification for the supplemental agreement was false. Mr. Marcelino Abesamis represented to the Napocor Board that Unit 2 of Kalayaan 1 Plant was in precarious conditions and President Puno agreed.

This clique, however, ignored the reports of the engineers themselves at the NPC's systems operations, which showed that the plant was far from being in a precarious condition. The only problem, minor as it was, had to do with the transformer of its Unit No. 2. This transformer, however, was operating and functioning normally.

Guess who did the rehab, Mr. President? NPC engineers who had retired. They were hired by IMPSA to do the rehab of Unit 1 and 2 of Kalayaan 1. Guess how much IMPSA spent and how much we paid or we were supposed to have paid? US\$9 million. Guess how much we have already paid IMPSA? As of June, four months

ago, we already paid US\$50 million. And that is still going up. It may reach as high as US\$160 million.

Three months ago, Mr. President, a New Zealand consulting firm specializing in power plant designs called Meritec Ltd. was hired by the Department of Energy to validate the expenditures IMPSA has made thus far on the rehabilitation of Units 1 and 2 of Kalayaan 1, and the two new plants which is now ongoing, being built by IMPSA of Kalayaan 2. IMPSA refused to show its project costs, so Meritec had to undertake its own estimates.

Meritec revealed that the rehabilitation of Kalayaan Units 1 and 2 was unnecessary and even if the so-called "repairs" were undertaken, the costs charged by IMPSA were exorbitant. Meritec also found that Napocor paid IMPSA an additional tens of millions of dollars in extra fees which were never provided for in the contract.

The financial term for these payments, Mr. President, are called "capital recovery fees." And it strikes us that one can only recover capital if that capital had been spent. So, only Gonzaga and his cohorts can explain to the Filipino people how a proponent like IMPSA can spend US\$9 million and be paid US\$50 million within one year.

Let us simplify, Mr. President. The original contract of IMPSA called for an expenditure of US\$195 million by IMPSA to build two new additional plants totaling 350MW which would be known as Kalayaan 2 and then to rehabilitate the two existing plants of Kalayaan 1 later on, about 2004. IMPSA would then be paid beginning in 2004, upon the completion of both projects, a fixed amount over a number of years. That amount (or

periodic payment) had already factored in the cost of money, the profits of IMPSA, et cetera.

What had happened? The rehabilitation of Units 1 and 2 of Kalayaan 1 was advanced by three years, Mr. President. And this rehab was used as an excuse to jump-start the periodic payments that Napocor would not have had to pay IMPSA until 2004. So, that means we are paying 42 months in advance--42 months worth of fees which are not part of the original agreement.

Not only that, Mr. President. IMPSA recently defaulted in Argentina on its US\$20 billion loan. So here, we have a situation where IMPSA went to the government, insisted on being paid immediately and we know why--because it did not have the funds to continue building Kalayaan 2.

Here is a situation where a poor country, like the Philippines, is now being asked to finance IMPSA which, originally, was supposed to finance the new plants at Kalayaan 2.

So, this now means higher PPA charges to the Filipino customer. The levelized cost now for the CBK power plant has been effectively increased from P0.65 to P0.81 per kilowatt-hour. This may look low, Mr. President. After all, we are paying P9 per kilowatt-hour for Casecnan. But remember that it averages this cost over all four plants and the cost of the dam. IMPSA did not build the dam; IMPSA did not build Units 1 and 2 of Kalayaan 1; IMPSA is only building Units 3 and 4.

The P0.16 increase per kilowatt-hour, Mr. President, translates into P8 billion in overcharges over the life of this contract.

This is what everybody in this room will have to pay for.

The final report of Meritec, Mr. President, which came in two parts, was submitted to Napocor on July 25 this year. When I asked for a copy, Mr. Roland Quilala, Napocor's president, furnished me with only the first part, thinking that I would not find out that there was a second part. Only over one month later, on my insistence, on August 29 this year did Mr. Quilala give me a copy of the second part of Meritec's report. And this was the deadly part. This was the smoking gun.

To authorize the payments to IMPSA, a certificate of completion was called for and had to be issued. Guess, Mr. President, who signed the certificate of completion? In spite of the fact that the spillway at Lake Caliraya, which is part of the rehab package contract, is only 50% complete. Mr. Gonzaga again, the president of Transco, a separate corporate entity in charge only of the transmission lines, and who has no jurisdiction over the generating plants which belongs to Napocor.

Even the Napocor engineers at CBK complex, Mr. President, refused to endorse a certificate of completion because IMPSA has not passed the acceptance test since the work on the Kalayaan plant is still unfinished. We have Mr. Gonzaga to thank and his clique at Napocor and at DOE for the issuance of the certificate of completion which triggered the payments of the Filipino people to IMPSA.

Mr. President, Napocor and other government-owned and controlled corporations have been the subject of horror stories involving corruption and incompetence in the recent past. We have heard of scams at

Piatco-NAIA, Casecnan, PEA which stands for Public Estates Authority, but I think it will now be better known as the Public Estafa Authority, the builder of the P500 million per kilometer--Diyos ko po napakamahal na President Boulevard right next to the GSIS Complex--the SSS, GSIS, the Customs, the BIR, the LandBank tax scam. We could go on and on. We can also enumerate other scams of Transco-Napocor including the Leyte-Cebu interconnection expansion, the overpriced coal purchases and other "last two-minute deals" by Gonzaga and cronies since they will have to retire when Transco is transferred to the concessionaire.

Mr. President, a recent survey published yesterday in most newspapers revealed that the Philippines is coming up in the world--we have risen to number 11--the 11th most corrupt country in the world. Thanks in no small measure to people like Gonzaga, Quilala, Pancog, Abesamis and their ilk.

There are several fine, competent, honest officers at Napocor and Transco. And I am really sorry that their image is besmirched by crooks at the top.

Of even more concern to us all, Mr. President, is the impending sale and privatization of Transco's and Napocor's assets which will bring in an estimated US\$4 billion to US\$5 billion or roughly P200 billion to P250 billion. This amount, by the way, will only partially pay down Napocor's outstanding debt of US\$8 billion--not to speak of another US\$6 billion in stranded contract costs because of her IFPs.

Can our country, Mr. President, afford to have dubious characters like Gonzaga, Quilala,

Pancog and Abesamis in key positions overseeing this giant privatization?

I then respectfully request this Chamber to authorize the Committee on Government Corporations and Public Enterprises to conduct a full inquiry into the CBK and other scams that may be unearthed along the way in Napocor and Transco. And to prepare amendments to the EPIRA and other existing laws that will plug the huge loopholes that have been taken advantage of by men who have placed their personal interests on their bank accounts way above the interests of the country and people they pretend to serve.

Thank you, Mr. President.

The President. Sen. Edgardo J. Angara is recognized.

Senator Angara. Thank you, Mr. President.

If the distinguished colleague from Cebu will care to clarify some points?

Senator Osmeña (S). Gladly, Mr. President, to the newly arrived Ambassador from Canada.

Senator Angara. It is not really an ambassador, Mr. President. I am pleased to report to the Senate President that I was elected as a member of the International Board of an Anti-Corruption Body. And so, I stood up because it seems appropriate for the occasion.

Now, Mr. President, this CBK, is this the same contract that was the subject of a very quick, rapid approval four days after the Arroyo administration took over in...?

Senator Osmeña (S). That is correct, Mr. President. Secretary Nani Perez, the Secretary of Justice, approved the contract on January 24, four days after Gloria Arroyo took office.

Senator Angara. Is this the same contract, Mr. President, that then Mr. Mark Jimenez, now Congressman Mark Jimenez, is said to have brokered and earned for himself US\$14 million commission?

Senator Osmeña (S). I do not know if the US\$14 million which I heard of and which was mentioned oftentimes by former Sen. Miriam Defensor Santiago during the campaign all went to Mark Jimenez. But we do know that this corporate genius nursemaid and shepherded this contract from 1998.

Senator Angara. To the assumption of President Arroyo?

Senator Osmeña (S). That is correct.

Senator Angara. And this US\$14 million commission may not have gone entirely to Mr. Jimenez. Would the gentleman know where it went, Mr. President?

Senator Osmeña (S). Well, the evidence is with one of our members here in this Chamber, Mr. President. He publicly stated that US\$2 million was deposited in a bank account in Hong Kong. Perhaps, he would like to share with us a copy of the deposit receipt and the transmittal of that US\$2 million to the JF Morgan Chase Bank in New York for and on behalf of Deutsche Bank of the Grand Cayman Islands in the Carribean.

Senator Angara. And in whose name was that US\$2 million remittance made, Mr. President?

Senator Osmena (S). I think the bank account in Hong Kong was in the name of Mr. Escaler, if I am not mistaken.

Senator Angara. Ernest Escaler.

Senator Osmena (S). Ernest Escaler and the bank account in New York was for and in behalf of Mr. Arceo.

Senator Angara. I see. Is Mr. Arceo, Mr. President, the one reported in the media as the brother-in-law of a prominent Cabinet member?

Senator Osmena (S). Yes, Mr. President. He is the brother-in-law of Secretary Nani Perez of the Department of Justice.

Senator Angara. Yes. And the remaining US\$12 million, Mr. President, would the gentleman know how the balance was disposed of?

Senator Osmena (S). Well, they did not tell me how they divided it, Mr. President. I heard that certain persons high up in Malacañang partook of the fistful of dollars that was thrown because of the approval of the IMPSA-CBK contract.

Senator Angara. Would the gentleman be prepared to name that higher up in Malacañang, Mr. President?

Senator Osmena (S). We do not have documentary evidence, Mr. President. That might be an abuse of our legislative immunity. But we would be willing to do that if we would be able to obtain some kind of, at least, witness who would have personal knowledge.

Senator Angara. Yes. Mr. President, I raised this matter again because we are going to have a transaction with Napocor on Transco. Is Transco the same firm that will receive a negotiable or a transferable franchise from us?

Senator Osmena (S). That is correct, Mr. President. This Chamber now has pending before it, on Second Reading, the committee report which would grant the transmission company better known as "Transco" a franchise for 50 years.

Senator Angara. Yes.

Senator Osmena (S). And this is a prelude to Transco's being privatized or bidded out to a private concessionaire for its management for 50 years.

Senator Angara. Am I correct, Mr. President, in saying that Transco constitutes probably the most modern and very well-maintained asset of Napocor?

Senator Osmena (S). Well, there are arguments for and against Transco. As a matter of fact, Mr. President, if the gentleman will notice in the past three or four years, although we have had a tremendous oversupply of power, we still get four-hour or eight-hour brownouts. Why is that? Because Transco is so inefficient and incompetent in laying out the expansion of the lines that it was supposed to have laid out for all the overbought IPPs that it had contracted.

So, essentially, what we have is 12,000 megawatts in the entire Philippines, about 8,500 megawatts of installed capacity in Luzon alone, but we cannot take advantage even of the 8,500 megawatts because the transmission

lines have not been completed, expanded or built. I will give another example, Mr. President. Pagbilao, for example.

Pagbilao was finished about three-and-a-half years ago. When Pagbilao was finished, Napocor was then obligated to begin paying Pagbilao because it was ready to generate electricity. And yet, the transmission company or Napocor at that time had not finished the transmission line. For seven months, the Filipino people paid Pagbilao for power that it could not access even if it wanted access to that power because hindi pa ginagawa iyong electric highway na papunta ng Pagbilao. I do not know if we can call that incompetence. But there were so many anomalies in Transco, particularly in the anomalous overpricing of right of way.

Senator Angara. Yes, Mr. President. That is quite notorious.

The point that I am trying to verify and confirm from the gentleman is that Transco's assets are in such state that it can readily or easily generate revenue. Is it not?

Senator Osmena (S). Transco is a monopoly, Mr. President. We would not be enjoying our electricity without Transco. We can liken Transco to a superhighway. There is only one owner of Transco and that is Napocor. Now, the spinoff of Napocor is called Transco, the transmission company which is 100% wholly owned by the Filipino people. Yes, it has several new assets. We have been spending something like US\$500 million a year for the expansion of Transco lines which is really underspending.

One of the reasons we are calling for the privatization of Transco to a concessionaire

is that we need to expand Transco by an average expenditure of about US\$1 billion a year over the next ten years and we do not have that kind of money.

Senator Angara. Yes, Mr. President. So Transco is a monopoly. It is like a toll road. It generates cash. It is going to be a cash-cow and it will give the ultimate winner in the bidding if it is going to be bid out. It is really a great monopoly.

Senator Osmena. Well, it is a monopoly. That is allowed by law. It is allowed by the Constitution as long as it is regulated.

Senator Angara. Why would we sell it, Mr. President? Why should we part with a valuable asset like Transco?

Senator Osmena (S). To tell the gentleman frankly, Mr. President, let us go back in time.

Napocor came about because the small electric cooperatives in this country, say, in the 1950s or 1960s, could not afford to build their own power plants and transmission lines leading to the power plants.

In the big concession areas like Meralco, for example, Visayan Electric in Cebu, Davao Light and Power in Davao, Panay Electric in Iloilo City, these were of such economic size that they could build their own power plants and own transmission lines. Anyway, the area was small and contiguous. As time went by, since the countryside was growing and the demand for power was rising, the electric cooperatives, which were mutually owned by every consumer in their franchise area, were not putting in money and they kept on borrowing and borrowing from the government

through the National Electrification Administration, so the government had to organize the Napocor to put up the power plants.

When martial law was declared in 1972, as we know, Ferdinand Marcos created several monopolies. He created the coconut monopoly, the tobacco monopoly, the sugar monopoly. One of the monopolies he created was the Napocor monopoly over power plants. So all private power plants then were mandated to sell their generating plants or private distribution utilities to Napocor. So Napocor became a monopoly in that manner.

Napocor had a very healthy balance sheet. All the way up to about 1991, its balance sheet was healthy. It could borrow money to expand. What happened was when it signed all these IPPs, obligating Napocor to those take-or-pay contracts. Napocor overdid it to the extent that its revenues would now not match its obligations with the IPPs and cannot take care of its other expenditures. Napocor started falling into the red by a big amount. As a matter of fact, this year, I think it will be reporting a P19-billion loss.

The only available alternative, Mr. President, was to privatize and allow the private sector that had access to funds, to help expand our energy sector.

Mr. President, two things can happen. No. 1, on the sale of the generating plants which is now mandated under the EPIRA to be privatized and to join an electricity spot market to be able to bring about competition in the supply of electricity. In other words, the monopoly of Napocor will be gone. Several groups will now own these generating companies of Napocor and hopefully, put up their own and

compete in the spot market, hopefully, to bring down the basic cost of energy in this country.

No. 2, we will have this highway that will now be managed by a concessionaire by 50 years called Transco. That concessionaire will now be obligated to expand, as the needs arise, which again has been estimated for the next 10 years to be a billion dollars a year in order that the people will be served by the rising demand for electricity in this country.

Mr. President, there is a formula to determine the growth rate of electricity. It is roughly 1.4 to 1.5 times the growth rate of the gross domestic product. If we are expecting a gross domestic product of 4%, we multiply that by 1.5, we are looking at an increase in the demand for electricity of about 6% over the next three to four years.

Senator Angara. This is the monopoly that Mr. Gonzaga, Mr. Quilala, Mr. Pancog, and Mr. Abesamis will preside over in privatizing, Mr. President?

Senator Osmena (S). There is something I did not mention, Mr. President. I have been receiving reports that Mr. Gonzaga, Mr. Quilala and Mr. Pancog have been gathering all the key engineers of Transco and corporatizing themselves and will be blackmailing whoever is the winning bidder to deal with them because they will be the only game in town. This I am trying to avoid because otherwise, tuloy ang ligaya nila. And we, the Filipino people, will have to keep on paying for the *kalukohans* that have always been obtaining in Napocor.

Senator Angara. It is like a management takeover with one difference--that others will

be paying for the takeover but they will be the ones managing it.

Senator Osmena (S). That is correct. Mr. President, they have unionized themselves. They will try to make themselves the only game in town so that even though there should be a winning bidder for Transco, they will have nobody else to deal with except the Gonzaga group.

Senator Angara. What I mean, Mr. President, is, not only will there be a monopoly on the transmission but there will also be a monopoly on the management.

Senator Osmena (S). That is correct, Mr. President.

Senator Angara. Mr. President, where did the gentleman get the estimate of US\$4 billion to US\$5 billion that we will be generating out of the privatization of Transco?

Senator Osmena (S). Mr. President, several studies have been made over the past few years. The first one came from FRED which is the privatization department in the Napocor. The second one came from the Credit Suisse First Boston study that was done for the Senate Energy Committee under then Chairman Sen. John H. Osmena. The third one was an update also by Credit Suisse First Boston for PSSALT. Although all the numbers have been going down--it started at about US\$6.5 billion--it is now down to about US\$4 billion to US\$4.5 billion. But then part of that can be attributed to the weakness in demand and weakness in interest on energy assets in this part of the world.

We are not the most attractive market in the world today, Mr. President. People know

that when they go into anything that is regulated by government here, they will not only take the market risk, they will not only take the financial risk but they will also have to take the regulatory risk. Because every time we ask for an increase in rates, even if it is justified, people can go out into the streets, protest, and then what happens is that, in effect, causes people to shy away from the Philippines because they will never be able to meet their internal rate of return as they had originally estimated it to be.

Senator Angara. So what I gather from the gentleman's piece is that the transmission assets are probably the most valuable of the Napocor assets and could probably fetch between US\$4 to US\$5 billion....

Senator Osmeña (S). No, no. Mr. President. First, let me correct the impression that we are selling the transmission company. We are not selling the transmission company. We are selling just the concession to operate it, to manage it. But with that concession comes the obligation to keep on putting money in so that when Mr. Juan dela Cruz in Surigao or Mr. Jose del Rosario in Panay needs extra power, there is a transmission company with the available capacity to serve those gentlemen or their companies. That is No. 1.

No. 2, Transco itself is only one-half of the US\$45 billion that we are expecting to generate from the privatization of Napocor and Transco assets. The other half will come from the sale of the generating plants now owned by Napocor.

Senator Angara. And that should provide sufficient revenue to pay off Napocor's debt?

Senator Osmeña (S). No, sir. The total financial debt of Napocor, the corporation, and Transco, amounts to something like--if my memory serves me right--US\$8 billion. What we will raise, whether it is US\$4 billion or US\$4.5 billion dollars, will only partially pay it down. Which is why, first, we will read in the EPIRA that one of the provisions is that the national government, through the national budget, will have to take over P200 billion worth of existing financial obligations of Napocor. That is about US\$4 billion.

Second, there is still an additional overhang of about US\$6 billion in stranded contract cost. These are the estimated cost of electricity of how much we have to subsidize the IPP contracts that Napocor had signed. So all in all, I think Napocor's outstanding debt obligation would be in the neighborhood of US\$14 to US\$15 billion.

Senator Angara. So what then is in for the ordinary electricity consumer in the privatization of Napocor if it again...?

Senator Osmeña (S). Mr. President, the consumer is faced with a very bleak future if we allow Napocor to continue existing as it exists today. Bakit po?

No. 1, lugi na po ng P19 billion; No. 2, it cannot raise anymore the funds needed for the continuous expansion that any public utility, any distribution utility will have to undertake in order to meet increasing demands.

Mr. President, the other day in the hearing on the Transco franchise, PSALM Chief Executive Officer Ed Delfonso, reported that in two years' time Mindanao will run short of

power. In three years, the Visayas, and in four to five years, Luzon. This is because the overhang today is more on Luzon than in the Visayas or Mindanao. I think we have 8,500 megawatts in Luzon which normally takes up about 70% of electricity demand in this country, and the rest are spread out almost evenly between the Visayas and Mindanao. Pero maliit po iyong taba sa Visayas at Mindanao.

As a matter of fact, the island of Panay is now experiencing shortages. They will have to fasttrack the construction of a new power plant in Panay as soon as possible. And I heard that the proposal is to take the Pinomokan plant of Enron here in Bataan which has already run out on its contract, rehabilitate it and bring it to Panay and convert it into a diesel plant perhaps because the people of Panay are just going to be suffering from long brownouts or rolling brownouts in the next two or three years and until that plant comes up.

Senator Angara. So the gentleman is in effect saying that the burden of electricity generation and transmission will be shifted from government through Napocor to the private sector, and we are hoping that the private sector will be public-spirited to invest more in transmission, as well as in generation, to ensure an adequate and affordable supply of electricity. Is that the supposition in all these?

Senator Osmeña (S). Yes, Mr. President. The gentleman puts it quite simply. But, as we know, people do not do this out of the goodness of their hearts. This is a business, and any investor will take a look at the risk attendant to that business. Even if he has the expertise, he is going to take a look,

particular look at particular markets and find out what that market brings in the future.

For example, Mr. President, I just read in the latest issue of *Forbes Magazine*, which is a business journal published twice a month, that national grid of Great Britain, a British company, already owns or manages, and/or manages one-third of the total electricity grid in the United States. It is so big because it had the expertise prior to the Americans developing their expertise because Great Britain privatized her electricity, her electric sector, her energy sector earlier than the United States did.

So it developed the expertise in managing this well. As a matter of fact, the chief executive officer in that story was riding a helicopter with a laser that was sending out pulses at 25,000 pulses per second to determine how much a power line could take in load. He was flying over Connecticut. So it had this very, very sophisticated means. Although it is regulated, Mr. President, it is limited to a 12% return on equity, which is a different formula from the return on rate base that we utilize here, but it was allowed to exceed the 12% as long as it splits it with the consumer.

So if it goes to 13%, one-half of the 1% increment goes back to the consumer. If it goes to 14%, it is allowed only to retain one-fourth of any excess--about 13%, but national grid in the United States is enjoying a return on equity of about 15%.

Senator Angara. Yes, I am familiar with that, Mr. President. But does the gentleman not think that the national grid, the U.K. national grid is successful not only in the

U.K. but in the U.S. because of a predictable regulatory environment?

Senator Osmeña (S). Yes, that is right, Mr. President. It is hard to keep--

Senator Angara. Planning.

Senator Osmeña (S). --being policed.

Senator Angara. Yes.

Senator Osmeña (S). In this country, the normal complaints I hear about, aside from the normal graft and corruption or what the economists call the "multiple veto"--because every clerk along the way can veto whatever one is applying for--there is what they are now calling "the regulatory risk."

So, very few investors have the stomach to go into anything that is regulated in this country because they know how unwieldy the entire process can become--

Senator Angara. Yes.

Senator Osmeña (S). --and how politicized it has become.

Senator Angara. That is why I go back to my original formulation, although the gentleman calls it "quite simplistic" that the gentleman is now banking on the goodwill of the private sector to come in and invest in these assets and banking on their goodwill to do well by our country, by investing and building the transmission.

Senator Osmeña (S). I am really sorry, Mr. President, I cannot agree with the term "goodwill." There is no businessman who puts goodwill ahead of profit.

Senator Angara. All right. So we will be....

Senator Osmeña (S). But I will say that if the returns are going to be sufficiently attractive for them, they will come in.

Now, what will happen because ours is recognized as a more difficult business environment, a more unpredictable economic environment?

As a matter of fact, Mr. President, just yesterday, I heard report that several investors that were coming into this country had pulled out because of the bombings, because their executives refuse to come to this country even for a meeting.

Senator Angara. That is why it is not going to be far-fetched that these investors would put a risk premium--

Senator Osmeña (S). Oh, yes, definitely.

Senator Angara. --on their rates and on their charges.

Senator Osmeña (S). Oh, definitely. If I am willing to accept a 12% return in Connecticut, I will probably not come into the Philippines with less than a 19% or 20% return because I know anything could happen tomorrow.

Senator Angara. Well, that is my ultimate point, Mr. President, that maybe it is not absolutely good for a country to leave a vital public service, like electricity, in the hands of the private sector exclusively. Maybe a mix of--

Senator Osmeña (S). No. Well, it is not...

Senator Angara. --state and private sector ownership and regulation would be much better.

Senator Osmeña (S). It all depends, Mr. President. For example, in the United States, a country which has no problem raising funds, I mean, the State of Iowa or the State of Kansas can float multimillion dollar funds or bonds tomorrow without batting an eyelash. They have also seen fit to privatize their distribution, their transmission, their generating sectors because they feel, they believe that the new trend is towards competition. We cannot foster competition today in the distribution sector—in the wire sector, they call it—in the wire subsector which is transmission and distribution like Meralco simply because nobody is going to put up parallel lines. It is just going to be too expensive and we will be splitting the revenue base in half. So both companies end up losing money. Those are natural monopolies. Those are to be properly regulated.

But in the generating sector, Mr. President, everybody is doing it.

Senator Angara. Mr. President, we will have another chance to debate this point whether we should completely divest of the transmission business which is going to be a monopoly and leave it entirely to the hands of the private sector. Or we should not maintain a significant stake in the transmission as an automatic regulator of the natural grid of the private sector for profit.

Senator Osmeña (S). Because of my participation in the crafting of the EPIRA

law, Mr. President, the original bill proposed the outright sale of Transco. If I am not mistaken, I was the one who proposed that. It was just given to a concessionaire so that the Filipino people will still own 100% of Transco.

If the Philippine government participates in the equity, say, in the capitalization of the concessionaire, what will happen is every time the concessionaire has to raise US\$1 billion, we have to put in our US\$400 million if we own 40%. And we cannot afford that right now. I think that the regulatory regime gives sufficient protection to the Filipino people regardless of who owns it. Besides, it will have to be 60% owned and operated by a Filipino entity.

Senator Angara. But what happens as a practical matter in the country is that the regulator ends up in the pocket of the regulated.

Senator Osmeña (S). Well, we have to watch the regulator then. But as we see, there is no end to it, Mr. President.

Senator Angara. That is why, I think that the best guarantee to that is not to....

Senator Osmeña (S). Why? Why should it be owned by the Filipino people? We have crooks in Napocor, anyway.

The President. I think the debate on that point will come when Transco....

Senator Osmeña (S). And the debate will not be with me, Mr. President. It will be with the Chairman of the Committee on Public Services.

Senator Angara. I thought I should raise it because if there is one knowledgeable senator on this, it is the distinguished gentleman from Cebu, Mr. President.

Just to wind up the point, Mr. President. The gentleman is expressing here the fear that we are going to leave the privatization of Transco, a very key vital segment of the electricity market, to a group of what appears to be thieving gang. Is that a correct characterization?

Senator Osmeña (S). Mr. President, that is what I fear that the same group that now operates Transco might be able to position themselves in such a way that whoever may be the winning bidder for Transco will still have to deal with them.

Senator Angara. And that is not good for the country.

Senator Osmeña (S). And that is not good for our country.

Senator Angara. Thank you, Mr. President.

Senator Osmeña (S). Thank you, Mr. President.

The President. Sen. John H. Osmena is recognized.

Senator Osmeña (J). Thank you, Mr. President.

Will the other Osmena yield for a few questions?

Senator Osmeña (S). The less experienced Osmena will gladly yield.

Senator Osmeña (J). I am not sure about that.

Mr. President, I am glad that the gentleman has brought out the so-called "rogues' gallery," the who's who of the crooks in the energy sector of this government, although I must say that I am afraid that this is a partial list.

Senator Osmeña (S). Definitely, Mr. President.

Senator Osmeña (J). Mr. President, I think we should not stop at naming these persons but rather pinpointing the responsibility for their having been appointed to office. Because if the gentleman will remember, one of our strongest motivations in the approval of the EPIRA Law was precisely to get rid of people who we have seen year after year. I have been in Congress for a number of years, and there has never been a year where there was no scandal coming out of the NPC.

So, one of our incentives was that we were hoping that we would be getting rid of these people. In fact, when I was resisting the "golden handcuff" that was going to be legislated for them, I was told that we should be relaxed and we should be liberal in their retirements so they will finally go.

But we find that, for example, the former executive vice president of the National Power Corporation, Mr. Asisclo Gonzaga, is now president of Transco.

Mr. President, who is responsible--would the gentleman be able to tell us--for the appointment of Mr. Gonzaga to the Transco?

Senator Osmena (S). I think that is the present administration. I do not know if the President herself had a direct hand in it. But her direct appointees have been Secretary of Energy Vince Perez and Secretary of Finance Lito Camacho. Lito Camacho is chairman of the board of Napocor.

Senator Osmena (J). Mr. President, under Section 11 of the EPIRA, the Secretary of the Department of Finance is the chairman of the board of Transco.

Senator Osmena (S). That is correct.

Senator Osmena (J). And the other members of the board of Transco are: the Secretary of the Department of Energy, the Secretary of the Department of Environment and Natural Resources, the President of Transco himself, although I assume that since he was the person appointed, he did not come in to the decision of his own appointment.

Mr. President, would the gentleman share with this representation the obvious conclusion that the choice of Mr. Gonzaga as president of Transco was a choice of the Secretary of Finance, Mr. Camacho, as well as the Secretary of Energy, Mr. Perez?

Senator Osmena (S). I think we should ask him that question. I would imagine so, Mr. President. I do not think the President of this country can personally handpick every--I think she has about 3,000 or 4,000--direct appointments to be made.

But it stands to reason that since Mr. Gonzaga came from the ranks and was already EVP of Napocor, the recommendation to place him as president of Transco definitely must

have come only from the Secretary of Energy and the Secretary of Finance.

Senator Osmena (J). Mr. President, on the matter of Mr. Rolando Quilala, is this the same Quilala who was mentioned in the report on the Binga Project who is working or receiving a salary from the infamous Catalino Tan?

Senator Osmena (S). Yes, Mr. President. As we know, if we had touched on Binga and touched on all the other, San Roque, we would still be standing here tomorrow morning.

Yes, Mr. President. These are the same members of the same clique.

Senator Osmena (J). So, Mr. Quilala who is now president of the National Power Corporation--and the directors of the National Power Corporation are members of the cabinet of President Gloria Macapagal Arroyo, and the chairman of the National Power Corporation is Finance Secretary Camacho--used to work for this notorious crook, Catalino Tan, who was involved in the Binga project.

Senator Osmena (S). Yes, Mr. President. I have read also the same reports that the gentleman has, and he even has more information on Binga than I do. The whole country is waiting for the gentleman to start an investigation on Binga because this is one of the worst contracts also signed by the Napocor. This happened during the Ramos Administration.

Yes, Mr. Catalino Tan seems to have earned the reputation of only being able to obtain contracts because of his closeness to a certain person who became President of this country in 1992. Before that, he was also

supplying combat boots, I think to the military and the Secretary of Defense also was the same person. So obviously, this is a many-splendored favorite of Fidel V. Ramos.

Senator Osmeña (J). Mr. President, we come now to another character here. I do not know who Atty. Pancog is, but when we come to Eng. Marcelino R. Abesamis, the CBK Project Manager. Who owns CBK?

Senator Osmeña (S). CBK is a project. First, CBK pertains to the hydropower complex. CBK stands for Calayaan-Botocan-Kaliraya. However, CBK-PCL stands for CBK Power Company Limited which is the company owned by IMPSA of Argentina. CBK also is referred to as the project with the Napocor circles when they say, "Iyong CBK project," they are talking about the BROT project now being undertaken by IMPSA. So, I do not know in what context the gentleman wants me to answer the question.

Senator Osmeña (J). Mr. President, under paragraph h) of Section 47 of the Penal Law, we provided there that the ownership of the Calayaan-Botocan-Kaliraya, CBK Pump Storage Complex shall be transferred to the PSALM Corporation.

Senator Osmeña (S). That is correct, Mr. President.

Senator Osmeña (J). Therefore, Mr. President, logically, Mr. Abesamis is an employee being a CBK Project Manager of the PSALM Corporation.

Senator Osmeña (S). Yes, that is correct, Mr. President.

Senator Osmeña (J). And who is the President of PSALM Corporation, Mr. President?

Senator Osmeña (S). Mr. Ed Delfonso.

Senator Osmeña (J). Therefore, Mr. President, we can say that in view of the fact that we have a Meritec report--Version 1 and Version 2--that Mr. Delfonso knows of the activities of Mr. Marcelino Abesamis?

Senator Osmeña (S). Mr. President, I do not know if Mr. Delfonso knows.

Senator Osmeña (J). The gentleman does not know if he read the Meritec report, Mr. President?

Senator Osmeña (S). I am not quite sure if he did.

Senator Osmeña (J). We will ask him that, Mr. President.

Senator Osmeña (S). Although, Mr. President, I would like to state that in a meeting with Secretary Perez, we discussed the Meritec report. Therefore, Mr. Delfonso should know about the Meritec report.

Senator Osmeña (J). And if he knows about the Meritec report since Mr. Abesamis is prominently mentioned in the Meritec report, then he should know of the activities.

Senator Osmeña (S). Of course, Mr. President. Because as the gentleman said, PSALM is now the owner of all the assets--the generating assets of Napocor. And so as chief executive officer of PSALM, Mr. Delfonso should have familiarized himself with such one of the big undertakings like the CBK project.

Senator Osmeña (J). Therefore, Mr. President, the fact that Mr. Gonzaga, Mr. Quilala and Mr. Abesamis were installed by boards that were headed by or chaired by Secretary Camacho and Secretary Perez, leaves us no conclusion except to say that their appointments under continued tenure are with the full knowledge and consent of these two gentlemen, at least.

Senator Osmeña (S). Definitely, Mr. President. As a matter of fact, we had discussed this several times with Secretary Perez, and he said that retirement was forthcoming. But unfortunately, although the Meritec report was delivered to Napocor on the 25th of July 2002 telling Napocor that, "Hey you overpaid, you have already paid US\$50 million as of June." And IMPSA had already spent US\$9 million, and up to this time, I have not seen the Department of Energy take the necessary steps to recover the money.

Senator Osmeña (J). Or to penalize the persons who were involved.

Senator Osmeña (S). That is correct, Mr. President.

Senator Osmeña (J). At least suspended.

Senator Osmeña (S). As a matter of fact, Quilala took to pay for this which was not in the budget of Napocor, because like I said, this was not part of the agreement to pay for this US\$50 million. They diverted the funds earmarked for Casecnan, another anomalous project because unfortunately for Casecnan, it was delayed by one year and six months and had not been able to start up until December 2001, less than a year ago. So it had a little surplus and Napocor used this money to pay IMPSA.

Senator Osmeña (J). Mr. President, moving towards a prospective issue. The very people whom we have shown here to be cavalier--to be kind about it--particularly Secretaries Camacho and Perez, about massive graft, about putting in office known crooks, are going to be sitting in the board of Transco in deciding who will be the buyer of Transco and the franchisee. Because under the proposal that has been approved by the House of Representatives, Congress is being asked to delegate to this body headed by these two people with this notorious record of chivalrous treatment of corruption to be the ones to actually decide who will be the one to be assigned those franchises.

Mr. President, does the distinguished gentleman think it would be wise of Congress to delegate this authority given the track record of these gentleman as we have seen here this morning?

Senator Osmeña (S). Mr. President, I will go further. If the same crooks are still in Transco, I would not go through with the privatization of Transco. I understand the dilemma faced by Congress in determining whether a Transco franchise should be assignable or not assignable.

If we got honest men running Transco, I am in favor of making the franchise assignable simply because the bidding is going to be much lower for a nonassignable contract because the winning bidder knows he will have to go through again another long and tedious process of obtaining a franchise from Philippine Congress which is not the easiest thing in the world as we all know, Mr. President. So it was the chicken-and-the-egg problem. What comes first, the chicken or the egg?

So what I am trying to do, Mr. President, is, I am willing to vote for the assignability of the franchise as long as we put good people in Transco. But if we keep these crooks in Transco, I will not even agree to the privatization of Transco and I will do whatever I can to block it.

Senator Osmeña (J). Yes, Mr. President, but the distinguished gentleman is just saying that he is going to allow Mr. Camacho and Mr. Perez to have a free hand with our delegation of authority even if they remove Quilala. It is easy for them to rehire Quilala, Gonzaga and Abesamis.

Senator Osmeña (S). Yes and no at the same time, Mr. President. I am trying to compute. If we are going to get US\$2 billion for Transco and if we pass a contract that is not assignable, what would that bring down the bid price by? That is very hard to compute, but knowledgeable investment banker would be able to put a dollar amount on that.

Then I will also try to determine among magiging under-the-table dito? Because there will be under-the-table no matter who we put there and I will have to weigh one against the other. Where will the Filipino people lose less? Will we lose more if we make the franchise nonassignable so they will have to go back to Congress? I do not know yet. Like I said, this is a real dilemma because I do not know which came first--the chicken or the egg.

Senator Osmeña (J). Mr. President, I am almost made up. I think that the current administration has no capacity for choosing good men and so let us just wait for the next administration.

Senator Osmeña (S). It all depends, Mr. President. What does the distinguished gentleman mean by "good"? "Good" at governing or "good" at stealing?

Senator Osmeña (J). Of course, there is no good out of stealing, Mr. President. But as we know people come in and smiling like a rose and soon enough we find out that they are very crafty and they come up with Code-NGOs and tuck away billions of pesos in very sly manner. This really gives the gentleman an inkling of what they are capable of doing.

Senator Osmeña (S). Yes, I do agree, Mr. President. Unfortunately, our Constitution gives too much powers to the Office of the President and if we had the opportunity to amend, I would cut down on those powers.

Senator Osmeña (J). I think, Mr. President, the lower cost to the people would be to defer Transco until 2004.

Senator Osmeña (S). I am just afraid, Mr. President, as we need, like for example here in Luzon the problem might not be as much as the problems are in the Visayas and Mindanao.

The Visayas is going to run short of power. We have to finish the interconnects as soon as possible. The government does not seem to be able to get enough credit to pay for the interconnects. We have never undertaken the Leyte-Mindanao interconnect. We still have....

Senator Osmeña (J). Although we have money for that. I do not know what happened to that bidding.

Senator Osmeña (S). We have money for it but some crony tried to come in and do it, so

that messed up that whole bidding. And then, the bidding also for the Leyte-Cebu interconnect which would expand the capacity of the transmission line from Leyte where the power comes from Tongonan, Leyte A and B to Cebu. Cebu is going to run short of power not because the power is not available but because the connection is not there. Then, Panay again, from Negros to Panay.

So here, Mr. President, I have to weigh....If we let 2002 go by, 2003 go by, we go into 2004, that is a billion dollars a year. We need an expansion.

If we do not build that, Mr. President, it is the poor people who will suffer. That is what I am worried about.

Senator Osmeña (J). Well, Mr. President, we can debate that at another point. But the fact remains and I congratulate the distinguished gentleman for this, that he has at least brought out these four characters--not only these four--the two others or the three others, including Delfonso--who are responsible for their being in office and for their continuing to be in office.

Thank you, Mr. President.

Senator Osmeña (S). The good gentleman from Cebu has even more expertise and background, being an engineer, in the power sector. So, I look forward to his inquiry into the issues that we have taken up here today.

Thank you, Mr. President.

MANIFESTATION OF THE CHAIR
(Referral of Senator Osmeña (S) Speech
to Government Corporations and
Public Enterprises Committee as

Primary Committee; and Blue Ribbon
as Secondary Committee)

The President. Thank you.

The speech of Sen. Serge Osmeña and the interpellations thereon are referred to the Committee on Government Corporations and Public Enterprises, as the primary committee; and Committee on Accountability of Public Officers and Investigations, as secondary committee.

The Majority Leader is recognized.

BILL ON SECOND READING
S. No. 2116--The Special Purpose
Asset Vehicles (SPAV) Act of 2002
(Continuation)

Senator Leviste. Mr. President, I move that we resume consideration of Senate Bill No. 2116 as reported out under Committee Report No. 41.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2116 is now in order.

Senator Leviste. We are in the period of individual amendments. We are waiting for Senator Arroyo.

SUSPENSION OF SESSION

Mr. President, I move that we suspend the session for one minute.

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

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:20 p.m., the session was resumed.

The President. The session is resumed.

Sen. Ralph G. Recto and Sen. Joker P. Arroyo are recognized.

The Majority Leader is also recognized.

Senator Leviste. The parliamentary status, Mr. President, is that we are in the period of individual amendments. We are on page 11 of the October 16 version.

The President. All right. Senator Arroyo was the one on the Floor yesterday.

Senator Arroyo. Thank you, Mr. President. Yesterday, we were on Section 12 and more specifically on page 11, lines 1 and 2, but this is a rather controversial thing. And with the permission of the sponsor, I would suggest that we take the tax aspect of this bill because this is really the heart of the problem. And with his permission, may I proceed first to the tax exemption without prejudice to going back--

The President. All right.

Senator Arroyo. --to Section 12.

Senator Recto. No problem, Mr. President.

Senator Arroyo. Mr. President, I had urged that this bill rehabilitates the banks, gives benefits to the banks, but hardly any benefit to the borrowers.

To realize the objectives of this bill, both the FIs and the SPAV would have incentives and exemption privileges in the form of tax exemptions.

Mr. President, to equalize things, I would propose an amendment that any benefit that is given to the FI and to the SAMC should also be extended to the borrowers, to the assignees, or to the third parties. How does that work?

Under Section 14 and the subsections under it, and Section 15 and Section 16, this bill works this way. If an NPA is transferred from an FI to a SAMC, there will be no tax. When the SAMC sells it to a third party, there will be no tax.

Now, my proposal which I will formulate later would be, that all these benefits be given also to the borrower and other related parties. How does this work? If an FI or rather if a borrower should obtain his own property from an FI, he pays no tax. If the borrower sells that same property to a third party, he pays no tax.

Now, let us change the picture a little bit. If a third party should buy or acquire an NPA from an FI, he pays no tax. If the third party sells that same property to another third party, he pays no tax. In short, all parties do not pay tax.

So, I will formulate my amendment, if the sponsor is willing or is agreeable to this equitable proposition, Mr. President.

Senator Recto. Since the gentleman from Bicol says that this is equitable, I agree with him--that if I were to accept these amendments as formulated later on and it will be more equitable, then there is no reason why

the sponsor will not admit or will not accept the amendments being proposed by Senator Arroyo.

Senator Arroyo. Is the gentleman's principal agreeable?

Senator Recto. Whose principal?
[Laughter]

ARROYO AMENDMENT

Senator Arroyo. Mr. President, I propose, subject to style, that at the end of Article IV, entitled, Incentives and Exemption Privileges, there should be an additional section which would read something like this, subject to style: THE TAX EXEMPTIONS GIVEN TO THE FIs AND THE SAMC AT THE VARIOUS STAGES OF THE TRANSACTIONS UNDER THIS ACT SHALL LIKEWISE BE EXTENDED TO THE BORROWERS, HIS ASSIGNEES OR THIRD PARTIES.

It is an additional section.

The President. What does the sponsor say?

Senator Recto. Again, subject to style, Mr. President. But I do have my own suggestion. Maybe the gentleman would want to hear the suggestion of the sponsor. There is already a provision in Section 14 which reads: "PROVIDED, FINALLY, THAT THE FOREGOING TAX EXEMPTIONS AND FEE PRIVILEGES SHALL LIKEWISE APPLY TO ANY TRANSFER OF ROPOAs FROM AN FI TO ANY PERSON FOR A PERIOD OF TWO (2) YEARS FROM THE DATE OF EFFECTIVITY OF THE IRR."

That is what is written right now in the committee report.

My amendment would read as follows: PROVIDED, FURTHER, THAT THE FOREGOING TAX

EXEMPTIONS AND FEE PRIVILEGES SHALL LIKEWISE APPLY TO ANY TRANSFER OF ROPOAs FROM AN FI TO ANY PERSON...

Senator Arroyo. No, no. The gentleman mentioned ROPOAs.

Senator Recto. Yes, let me continue and then we can discuss the issue. ...FOR A PERIOD OF TWO (2) YEARS FROM THE DATE OF EFFECTIVITY OF THE IRR. PROVIDED, FINALLY, THAT TRANSFERS FROM ANY PERSON TO A THIRD PARTY OF THE ROPOAs ACQUIRED FROM AN FI WITHIN SUCH TWO-YEAR PERIOD SHALL LIKEWISE ENJOY THE TAX EXEMPTIONS AND FEE PRIVILEGES FOR A PERIOD OF NOT MORE THAN FIVE (5) YEARS FROM THE DATE OF ACQUISITION THEREOF.

Now, the difference between the suggestion of the gentleman and that of the sponsor is that the sponsor would like to limit this to ROPOAs. The reason for that is...

Senator Arroyo. No, no, Mr. President. I am talking about the NFAs. That means any transaction, yes.

Senator Recto. A combination of ROPOAs and nonperforming loans.

Senator Arroyo. Yes, Mr. President. Since that is a benefit given to the FIs and SAMCs, my proposal is, why not extend it also to the borrowers or anyone else? I mean, that is how it will look.

Because with the suggestion of the sponsor, Mr. President,--

Senator Recto. It is accepted, Mr. President.

Senator Arroyo. --the borrowers and the third parties will have again lesser....

Senator Recto. It is accepted, Mr. President.

The President. All right. The Arroyo amendment was accepted by the sponsor. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Osmena (J). Mr. President, the Arroyo amendment was made subject to style.

The President. The Arroyo amendment, as I understand it, was read by him as an additional section to Article IV.

Senator Osmena (J). I was listening very carefully. May I know from Senator Arroyo whether it was made subject to style or is that the final language of his amendment?

Senator Arroyo. Quite frankly, I want to make the wordings. So if we will have a minute recess, I will make the final wordings, Mr. President.

The President. All right.

Senator Osmeña (J). Precisely, Mr. President, I would like to reserve the opportunity to rise and pose questions to Senator Arroyo as soon as the language is definite because it is hard to ask questions on something that is subject to style. I could also ask questions that are subject to style.

Senator Arroyo. All right. Can we have a minute recess, Mr. President, so that I can make this?

The President. All right. Can we just proceed because there might be other amendments that are subject to style?

Senator Arroyo. Then I will make it while others may ask questions.

The President. All right. We can proceed now.

We will now proceed. Are there any other amendments on page 11?

SUSPENSION OF SESSION

Senator Recto. Mr. President, I move that we suspend the session for one minute.

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

It was 5:31 p.m.

RESUMPTION OF SESSION

At 5:53 p.m., the session was resumed.

The President. The session is resumed.

Senator Pangilinan. We are ready to resume with our....

The President. All right, before we suspended, Sen. Joker P. Arroyo was supposed to submit for the record the definite wording of the proposed Arroyo amendment. Is Senator Arroyo ready?

Senator Arroyo. Can we have a little more time, Mr. President?

SUSPENSION OF SESSION

The President. The session is suspended again for five minutes, if there is no objection. [There was none.]

It was 5:54 p.m.

RESUMPTION OF SESSION

At 5:57 p.m., the session was resumed.

The President. The session is resumed.

Senator Arroyo. Mr. President.

The President. Sen. Joker P. Arroyo is recognized.

Senator Arroyo. Mr. President, my amendment is that we delete on page 13, starting from line 10, after the word "PROVIDED".

Senator Recto. To line 14.

Senator Arroyo. Line 10.

The President. Line 10 on page 13, after the word "PROVIDED".

Senator Arroyo. Yes.

The President. Up to?

Senator Arroyo. Line 14 of the same page.

The President. All right.

Senator Arroyo. We delete that and in lieu thereof, we insert *FINALLY*, also in line 10, THAT THE TAX EXEMPTIONS AND INCENTIVES GIVEN TO THE FIs AND THE SAMC AT THE VARIOUS

STAGES OF THE TRANSACTIONS UNDER THIS ACT
SHALL LIKEWISE BE EXTENDED TO ANY PERSON.

The President. All right. Sen. John
Osmeña is recognized.

Senator Osmeña (J). Mr. President, on what
page and line is that going to be?

The President. Page 13, line 10. Actually
it starts on line 11.

Senator Osmeña (J). Page 13, line 11.

The President. Starting with line 11.

Senator Recto. Line 10.

The President. Well, line 10 is "PROVIDED,
FINALLY THAT THE TAX EXEMPTIONS".

Senator Recto. "THE FOREGOING".

The President. So we delete...

Senator Osmeña (J). What version is being
used here, October 14?

Senator Recto. October 16, page 13.

Senator Osmeña (J). October 16, page 13,
line 10--

The President. That is correct, yes.

Senator Osmeña (J). --after the year
"2002"?

Senator Recto. That is right.

The President. That is correct, yes.

Senator Osmeña (J). And will the distinguished sponsor please repeat his amendment?

Senator Arroyo. *PROVIDED, THAT THE TAX EXEMPTIONS, INCENTIVES, AND FEE PRIVILEGES GIVEN TO FIs AND SAMC AT THE VARIOUS STAGES OF THE TRANSACTIONS UNDER THIS ACT SHALL LIKEWISE BE EXTENDED TO ANY PERSON.*

Senator Osmeña (J). So in effect, Mr. President, the privilege on capital gains tax and documentary stamps and transfer taxes that is enjoyed by an FI will be extended to any other person.

Senator Arroyo. That is the idea, Mr. President.

Senator Osmeña (J). Not necessarily an FI?

Senator Arroyo. No, not necessarily an FI.

Senator Osmeña (J). So, in an instance where....

The President. No, no, no. Only FIs because only FIs are NFLs here.

Senator Osmeña (J). No, the privilege is extended to any other person.

The President. Non-SAMC.

Senator Recto. Maybe to clarify, Mr. President. The bill contemplates that the FI transferring its NFA to a SAMC is tax-free. A SAMC to a third party is tax-free.

The President. That is correct.

Senator Recto. An FI's NFA transferred to any person should be tax-free and if any

person were to sell to a third party, tax-free as well, that is equal application of the law. That is the amendment of Senator Arroyo, how I understand it to be.

Senator Osmeña (J). Suppose a person who is not an FI or neither is he a SAMC goes to a bank and offers a property that is not the subject of any mortgage regardless of whether the mortgage is nonperforming or if it is a ROPOA and says, "I would like to offer this property in substitution of the property that you are holding as a security for my loan," will that transfer now be also exempt?

Senator Recto. To answer that question, Mr. President, I do not think that the amendment relates to the situation that the gentleman is....

Senator Osmeña (J). No, the amendment shall apply to anybody.

Senator Recto. Let me bring the gentleman forward.

Senator Arroyo. Under this Act, Mr. President.

Senator Recto. Mr. President, I think what the gentleman may be referring to is on line 6 of the same page 13, and I will welcome any amendment that will delete this provision if the intention of the gentleman is to allow a borrower to replace an asset that is secured to a loan and to have it replaced by another asset. Line 6 says, "PROVIDED, FURTHER, THAT THE TAX EXEMPTIONS AND FEE PRIVILEGES SHALL NOT APPLY TO ASSETS TRANSFERRED FROM A BORROWER TO AN FI OR BORROWER, TO A SAMC IF SAID ASSETS HAD NOT BEEN PART OF THE SECURITY FOR THE LOAN AS OF JUNE 30, 2002".

Senator Osmeña (J). At the proper time therefore, because I was misled by the statement of Senator Arroyo that it shall apply to any person.

Senator Arroyo. There is a qualification here, Mr. President, under this Act. In other words, only transactions under this Act where we extend exemptions and incentives to the FIs and SAMC will also be extended to any person.

Senator Pimentel. Mr. President.

The President. What is the pleasure of Senator Pimentel?

Senator Pimentel. Mr. President, in all honesty, I would hate to raise a call to order for the reason that many of the things that are being proposed now by Senator Arroyo, for example, as amendments are actually the subject of my interpellation which I still have to raise. Apparently, we are following a convoluted process here which makes it difficult for us to follow just exactly where we are at at the precise moment.

Mr. President, I am wondering why is it necessary to sacrifice our *Rules* just for the sake of speeding up the approval of this measure? Among other things, for example, I would have wanted a categorical reply from the main sponsor: Will the companies or firms owned by one of our colleagues, Senator Villar, benefit from this?

Senator Recto. I am not aware...

Senator Pimentel. This proposal, for example.

Senator Recto. Mr. President, to answer that query...

Senator Pimentel. Yes. But kindly allow me to finish it.

The reason I am raising this point is, I think that there should be a categorical denial by the person concerned to say that he is not benefiting from this issue because one of the things that I would have asked from the sponsor precisely is to enumerate the so-called borrowers who have outstanding accounts or repossessed properties of his or hers that are now in the possession of commercial banks. Therefore, any amendment that Senator Arroyo wants to insert along that line will benefit definitely our colleague here. That is why I would have wanted precisely to raise this issue so that our colleague will have a chance to say that he is not going to benefit here, or he will benefit here, and then we can proceed to discuss this matter more dispassionately.

That is why, if we want, I will raise a point of order at this proceedings that we are not following the *Rules*. The *Rules* call for finishing first the interpellation and then we go to amendments. But I gave in yesterday upon the request of the Majority Leader that we allow Senator Arroyo to introduce amendments. But now I hear some of the amendments that are being proposed will precisely impinge on the issues that I am trying to raise in my interpellation.

The President. Senator Arroyo is recognized.

Senator Arroyo. Mr. President, there is an allusion here that my amendment will benefit Senator Villar. I think that is an unfair statement. I stated here that I would like the equal application of the law to

everyone. If in the process, which I do not know Senator Villar benefits, so be it.

But we have a list here given by the Bangko Sentral of 2,994 NPLs and a list of 2,107 ROPOA accounts amounting close to over P450 billion. I repeat, P450 billion.

Some of the people here, we know. Some of the people enlisted here are prominent. In fact, most of them are prominent. But there are also small people here. In this list, the small people are not listed. Why? Because this list covers only those with accounts of up to P5 million, but there are accounts here with indebtedness of P7.9 billion.

We are enacting a law and trying to make it equitable to all. Someone stands out who may be benefited by this. So I asked, "So what?" We have here on deck three million borrowers. Because otherwise, let us not pass this bill and let all these NPAs of our banks rot.

I am against many provisions of this bill, but when an allusion is made that it benefits a certain person, I think that is not fair because what is listed here would be three million people and among the big accounts, we have around 5,000. That is only up to P5 million, Mr. President.

For accounts, for instance, of ROPOA accounts with over P1 billion, there are 14 of them; with NPLs of P1 billion and above, 21 of them.

Mr. President, I do not intend to defend Senator Villar here. His name does not appear among the top. But I cannot mention the names here because I do not want to destroy their

reputations. That is why, I am even against listing or naming those people.

To me, it is immaterial who benefits because we are trying to solve the NFA problems of various banks.

Incidental benefits, Mr. President, is not an argument why we should not pass the bill. Because any bill benefits some people; prejudices some people.

In fact, what I was trying to do was to equalize things because the original text of this bill benefits only banks and SPAVs, and I do not think that it is fair.

So, I now say by my amendment that whatever the SPAV and the FIs will get by way of tax benefits or exemptions should be extended to any person. So that is what it is. It will be extended to any person.

That is about all, Mr. President.

Senator Pimentel. Mr. President, may I make a brief reply? Just a brief one.

The President. Senator Pimentel is recognized.

STATEMENT OF SENATOR PIMENTEL
(Beneficiaries of S. No. 2116 Be Made of
Record for Transparency)

Senator Pimentel. I do not think it is correct to say that it does not matter when we make laws--who will be benefited. I think that is a terrible assumption, Mr. President, that all of us are motivated only by pure motives which is not exactly true. That is why, I am asking for transparency. The names of the high stakes beneficiaries of this bill

should be placed on record. It is not enough to say that, "Well, the Central Bank has a list, there are 21 names, there are 21 people." Who are these people? There are 10 people belonging to the category of billions of loans or something like that. Who are these people?

The people of this country, Mr. President, are entitled to know because these are laws that are designed to benefit a particular class of people, and at the expense of government because obviously, some taxes will be forgone.

Therefore, Mr. President, that was what I was trying to get from the main sponsor yesterday when we started our interpellation-- to put on the record the so-called list of borrowers or ROPOA accounts and nonperforming loans, et cetera, the list of which was supposedly handed to the sponsor. How will the people know that indeed the list is either complete or incomplete or some people are being benefited or singled out for benefit by this bill unless the list is put into the *Record* of this Chamber during a proper interpellation and during the debate on this issue?

That is why, Mr. President, I am really pushing this issue. Why is it necessary that we sacrifice the *Rules* of this Chamber just to pass this bill and say by the end of this week, "Ah, we have accomplished something. We have passed the SPAV or this SAMC," whatever the initials are now?

The important thing, Mr. President, is, if we are going to pass this bill, we pass it with our eyes wide open because otherwise we are in the dark approving something not knowing just exactly who will benefit from it.

I do not mind, Mr. President, if Senator Villar will benefit from this bill. I am aware that he is not the only one who is going to benefit from it. But at least it is important that on the record people have a way of verifying for themselves that indeed these are the people who will benefit from it and then this Chamber will be judged accordingly by the people knowing the facts. That is what I am trying to argue for--that we go into this extensive interpellation precisely to put on record some data that are just being ignored and probably glided over as if they were not important, judging from the tenor of the answer of Senator Arroyo that the beneficiaries of this bill are not important.

My goodness! Mr. President, if we try to follow that kind of an argument, then we will be making laws that are in a vacuum that do not refer to particular persons or sectors of the society.

SUSPENSION OF SESSION

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

It was 6:17 p.m.

RESUMPTION OF SESSION

At 6:34 p.m., the session was resumed.

The President. The session is resumed.

The sponsor, Senator Recto, is once more recognized; Senator Pimentel is likewise recognized.

MANIFESTATION OF SENATOR PIMENTEL
(That the List of Defaulting Borrowers be
Submitted to the Secretariat and be Made Part
of the Debate)

Senator Pimentel. Mr. President, thank you very much.

During the break, it was my understanding that a list of defaulting borrowers as well as nonperforming loans has already been submitted to, I think, the sponsor. So, in lieu of my going over that list one by one and placing the names on record, may I request that the list be submitted to the Secretariat and be made part of this debate, and we can proceed to other matters after that, Mr. President.

The President. The Secretariat is so directed.

Senator Pimentel. Where is the list?

Senator Recto. The list is with Senator Angara. It is being photocopied. I would assume that after the photocopy, it would be submitted to the Secretariat.

The following is the List of Defaulting Borrowers:

(Insert)

Senator Pimentel. Yes. With that assurance, Mr. President, I would like to thank the sponsor for complying with this request because, as I said, the important thing is that we are transparent about the whole thing. We will know exactly who are

going to benefit from this bill and for what reasons.

Now, Mr. President, I understand that the SAMC will benefit, not only banks but also financial institutions. Is that correct? Is my understanding correct?

Senator Recto. Yes, a bank is a financial institution.

Senator Pimentel. Yes, but I think there are other institutions dealing with finances that are not necessarily banks.

Senator Recto. That is right, Mr. President.

Senator Pimentel. In any event, it would seem that the banks which will benefit from this SAMC have either been mismanaged or have made terrible judgments in extending loans to people who subsequently are no longer able to pay back the loans, Mr. President.

Senator Recto. That is an accurate assessment, Mr. President.

Senator Pimentel. By approving this bill, are we, in effect, rewarding bad business judgment on the part of these banks?

Senator Recto. That is possible, Mr. President. That is definitely possible. I have my reservations, to begin with, but nevertheless there is a problem at hand. Our financial institutions, particularly the banks, have very high nonperforming assets.

Senator Pimentel. In the course of the amendment of Senator Arroyo, for example, I could see, despite my reservations, some good

points, Mr. President, that I was trying to advocate.

Senator Recto. That is why the sponsor accepted it, Mr. President.

Senator Pimentel. For example, making sure that the benefits of this bill will not only relate to banks that have been prejudiced by their misjudgment, but also to ordinary people. Nonetheless, Mr. President, may we have the benefit of the sponsor's reply. Up to what extent will the SAMCs, I mean, this particular bill benefit private individuals who are likewise placed in the same situation as the banks or other financial institutions that are now being bailed out of their predicament?

Senator Recto. Could the gentleman rephrase the question?

Senator Pimentel. Is it my understanding that the gentleman has accepted Senator Arroyo's amendment which would therefore enable other people who are not necessarily SAMCs--

Senator Recto. That is right.

Senator Pimentel. --to benefit from here? Up to what extent would they benefit, Mr. President?

Senator Recto. Based on the amendment, it talks about any person. So any person with regard to purchasing these NFAs, selling it to a third party, with regard to the tax exemption already enumerated in the bill and the fee privileges which are found in Sections 14 and 15 of the committee report.

Senator Pimentel. Now, Mr. President, I have been informed that without the legislators having created a SPAV or what is now being called as SAMCs, some banks are already spinning off their NPLs and NPAs to buyers.

Senator Recto. That is right.

Senator Pimentel. If that is so....

Senator Recto. It is a business judgment on their part.

Senator Pimentel. If that is so, then why is there a need for a law to cover the SAMCs when banks and other financial institutions would already be doing this thing that we want them to do?

Senator Recto. Because it would not entice them to clean up the NPAs of the financial institutions in general. For example, Metrobank has already sold some of its NPAs. Nevertheless, the other banks may not be enticed to fix the financial condition of their banks and so with Metrobank as well. They are awaiting the passage of this bill so that they can continue the process of liquidating these NPAs--to reduce their NPAs so that their banks will become more viable as a financial institution, Mr. President.

The President. And not only that, the bill would also prohibit the banks from having interest and equity in the SAMCs.

Senator Recto. That is right.

The President. Therefore, we will present a true picture of the bank the moment it transfers....

Senator Recto. The balance sheet of the bank. That is right. That is why there is a provision as well on the needs of a true sale.

Senator Pimentel. Mr. President, actually, my main concern here is, how will these SAMCs impinge on the loans or the infusion of funds that government financial institutions have made into the banks that are now being bailed out? For example, GSIS, SSS, Pag-IBIG, the other government institutions, some of which were mentioned by Senator Biazon yesterday.

Senator Recto. That is right.

Senator Pimentel. Will the sponsor kindly oblige us with his views on this issue?

Senator Recto. Yes. There are some GOCCs and GFIs who have very high nonperforming assets themselves and they are interested to liquidate these NPAs so that they would be able to generate additional resources for them to continue with their own mandate, Mr. President. From what I hear, there are some SAMCs who are interested in purchasing these NPAs of GOCCs and GFIs.

Senator Pimentel. All right. Now, Mr. President, because these are government financial institutions, I think we have greater interest to know just exactly how these loans were entered into or how the funds from these institutions had been transferred to some investments that turned out to be sour later on?

If the gentleman would have a list of GSIS funds infused into particular businesses that would help us arrive at a better judgment on this issue. I am using GSIS only as one example.

Senator Recto. Mr. President, the committee has instructed the Department of Finance to provide anyone in this Chamber, particularly Senator Biazon, a list of these types of loans extended by GOCCs-- particularly in the interest of Senator Biazon, National Housing Mortgage Finance Corporation, National Housing Authority, maybe even Pag-IBIG and all--to submit whatever documents are needed by any members of this Chamber for them to be able to study how these GOCCs and GFIs have, in fact, incurred this type of nonperforming loans.

Senator Pimentel. Do we have the list already, Mr. President?

Senator Recto. We have requested the officials of the Department of Finance. As they are telling me at present, they have submitted some list to Senator Biazon.

Senator Pimentel. Senator Biazon is shaking his head, Mr. President.

Much as I would like to go along with the suggestion of the Senate President that we expedite the passage of this bill, I have no compunction about going along with the suggestion of the Senate President. But, Mr. President, we would really want to put into the *Record* the use of the funds of these government financial institutions. I think we have a greater interest here, greater than our interest as far as other banks are concerned.

So, it would help, Mr. President, if we can make that list available and also introduce it as part of the *Record* of this debate.

Senator Recto. Right now, the Department of Finance just gave me a copy of a list given

to Senator Biazon's office, dated September 5, received by the Office of Senator Biazon. However, I would assume that maybe this list is not the entire data that Senator Biazon is probably looking for. Nevertheless, there is a copy here given by the Department of Finance. If the gentleman from Mindanao has stated that we submit this to the Secretary as well to form part of the *Record*, then....

The President. It is submitted and made part of the *Record*.

Senator Recto. It is so submitted.

The following is the list of GFIs and GOCCs With NPLs:

(Insert)

Senator Pimentel. Yes. That is good, Mr. President. I hope that the gentleman's list includes the transactions of PDIC, LandBank, DBP, National Home Mortgage Finance Corporation, Home Guaranty Corporation, Home Development Mutual Fund, Social Security System, of course, the GSIS, Trade and Investment Development Corporation, Small Business Guarantee and Finance Corporation, Technology and Livelihood Resource Center and Livelihood Corporation. It looks like there are several government-owned or controlled corporations that have funds that may have been invested unwisely in some of these banks that we are now trying to bail out. I think that we, as representatives of the people and the people themselves, are entitled to know just how these things came about.

Senator Recto. I think the officials of the Department of Finance heard the distinguished gentleman loud and clear. I do not think it is my job alone, as sponsor, to provide every member a copy of all these lists. But I think the people concerned have heard the distinguished gentleman and the others loud and clear and they have been instructed to provide these lists and all other data that any of our members need to be able to participate intelligently in the discussion.

Senator Pimentel. Mr. President, I am not satisfied with that reply because we are doing this debate between the two of us and the financial experts of government are only peripherally involved here. Therefore, we have to ask these lists through the sponsor.

Senator Recto. Yes. Precisely, I have instructed the head of these agencies to provide these lists. Since this is an administration measure, it is incumbent upon them to satisfy the request of all the members of this Chamber, including the Minority, Mr. President.

Senator Pimentel. Yes, Mr. President. In which case, may I move for a one-minute suspension of the session so that the sponsor can make of record just when we are going to have that list.

Senator Recto. Well, the reply from the officials of the Department of Finance is that they may be able to comply within a week.

Senator Pimentel. Can we have the name of the Department of Finance's official who is making that commitment and specifically when? Because we cannot allow this to hang in the air as if he may or he may not do it, Mr.

President. We can cite the specific person for contempt of the Senate in the event that we are being made fools by making false assurances with no intention of complying with the assurance.

Senator Recto. Mr. President, based on the reply of Secretary Camacho of the Department of Finance, he will request from all these government agencies and GFIs covered under this bill to make these data available. He will try within the week or by next week but he cannot promise an actual date right now.

Senator Pimentel. I am sorry but I am not satisfied with that reply, Mr. President.

SUSPENSION OF SESSION

The President. The Chair declares a one-minute suspension of the session, if there is no objection. *[There was none.]*

It was 6:49 p.m.

RESUMPTION OF SESSION

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

The President. The session is resumed.

For the record, the Chair conferred with Secretary Isidro Camacho. He has committed that before the month is over, before October 30, the list requested by Senator Pimentel will be provided to the Senate and the same will be made part of the *Record* of these debates.

Senator Pimentel. Thank you for that, Mr. President. On pain of contempt of this Chamber.

The President. Yes.

Senator Pimentel. Thank you, Mr. President.

I would like to place on *Record* that the reason I am insisting on that list is to make sure that we have a basis to call the government financial institutions to account should it turn out that there is some mismanagement in these institutions, Mr. President.

Among the incentives, Mr. President, for the SAMC is tax exemption. That would be correct as a general principle, is that not so, Mr. Sponsor? The tax exemption is one of the incentives to this SAMC.

Senator Recto. Yes, with regard to what we call friction cost.

Senator Pimentel. Specifically, the payment of these documentary stamp taxes would be among those to be exempted from transactions involving SAMCs. Is that correct, Mr. President?

Senator Recto. Yes, as far as NPAs are concerned.

Senator Pimentel. All right. Do we have some figures as to how much the government will forgo--the overall or the estimated amount, considering the bulk or the billion pesos worth of NPAs that are covered by this SAMC bill, Mr. President?

Senator Recto. Maybe we can make rough estimates, Mr. President. For example, if the total NPAs are about P500 billion, assuming that we sell all those NPAs of P500 billion,

and assuming also that the value be 50% of P500 billion, then it is P250 billion. The friction cost would amount anywhere from 10% to 17%.

Senator Pimentel. The documentary stamp taxes only.

Senator Recto. The documentary stamp is exactly P0.30 for every P200 billion, that would be 1.5%.

Senator Pimentel. In terms of pesos?

Senator Recto. Yes, 1.5%. So assuming that there is a sale of P250 billion, assuming all NPAs were to be sold, then that is 1.5% of P250 billion. So roughly about P3.75 billion, assuming all are sold, the total universe.

Senator Pimentel. Yes. And we are speaking here of documentary stamp taxes?

Senator Recto. That is right.

Senator Pimentel. What about capital gains tax, assuming again that all of these NPAs are sold?

Senator Recto. Capital gains tax is 6%.

Senator Pimentel. And that would be....Can the gentleman kindly help us for the record?

Senator Recto. Six percent of, let us say, P250 billion, so that is a maximum potential of P15 billion. But I think it would be best to state for the record that not all FIs today have to pay capital gains taxes.

Senator Pimentel. Yes. In any event, if this bill is passed, the SAMCs would likewise

be exempted from documentary stamp taxes as well as capital gains tax?

Senator Recto. That is right.

Senator Pimentel. Now, what about income taxes?

Senator Recto. If the gentleman is referring to paragraph (c) which is creditable withholding income taxes, this is just actually an up front which can be deducted at the end of the taxable year. So really, we are not giving away income taxes under this section.

But there is a provision at the end of the bill which talks about additional incentives for FIs doon sa net operating loss carryover, which at present is three years to be extended to five years in the case of financial institutions. So we are actually giving them two additional years that would translate into about P8 billion, because at present they are paying about P4 billion a year.

Senator Pimentel. For the FIs?

Senator Recto. That is right.

Senator Pimentel. About P8 billion. All right. Are we assuming that the FIs we are talking about here would also fall under the category of the SAMCs?

Senator Recto. No.

Senator Pimentel. What about the SAMCs, are they exempted from income taxes?

Senator Recto. They are not exempted from income taxes although there is a provision here as well as in Section 15 which talks

about additional tax exemptions and fee privileges only to those SAMCs who will rehabilitate distressed businesses by way of extending loans and capital infusion.

It is very difficult to determine, Mr. President, how many distressed companies they will assist by way of loans or capital infusion.

Senator Pimentel. Yes, I can understand that.

Senator Recto. Thank you, Mr. President.

Senator Pimentel. On value-added tax. Are we sacrificing any value-added tax?

Senator Recto. Yes, that is right.

Senator Pimentel. And what would be our estimate of....

Senator Recto. The value-added tax is about 10%. Of course, that is the gross. So if it is P250 billion, it is P25 billion, Mr. President.

Senator Pimentel. Now, that being the case, are we talking here of a plus side for our economy or a minus? Overall, Mr. President?

Senator Recto. If we are able to reduce the NPAs of our banks, then our financial sector would be in a better position to start lending out to entrepreneurs, so on and so forth. So at the end of the day, we feel that we will have an upside because at present, there is actually no revenue loss to government because if we do not provide for incentives to reduce the NPAs of the banks by way of these tax exemptions and privileges,

then the banks will not sell these NPAs, and therefore government does not collect anything anyway. So, to our mind, nothing is really lost to government except the NOLCO which is two years.

Senator Pimentel. Except the what?

Senator Recto. The provision on net operating loss carryover because clearly, there will be at least an P8 billion, possibly an P8 billion shortfall there.

Senator Pimentel. For purposes of our ordinary citizen, can the gentleman kindly explain in simple terms what is meant by that "net operating loss carryover"?

Senator Recto. If an entity today, a business entity has not made a profit and has lost, for example, in any given year, under existing laws, he can claim that loss for the next three years so that he does not have to pay the income taxes. So that is under existing law.

Senator Pimentel. All right.

Senator Recto. So, the P8 billion is really a small price to pay as well as an incentive for the banks to reduce their NPAs and to sell their NPAs.

Senator Pimentel. Mr. President, I would appreciate the sponsor's replying for the record to the observation that our Constitution may be violated by the grant of SAMCs which would, in effect, favor a particular sector over the rest of the citizenry. How would the sponsor reply to that?

Senator Recto. Precisely, the committee has tried its best to make sure that whatever laws we pass or particularly in this bill to make the equal application of the law. That is why with regard to our deficiencies, we have accepted the amendment of Senator Arroyo, the gentleman from Bicol, to insure that we apply the law fairly and equitably.

Senator Pimentel. What about the prohibition against foreigners owning land? As we know, it is possible that through the SAMCs, somehow this prohibition might be circumvented, Mr. President.

Senator Recto. Yes, that is found in Section 4, page 5, lines 3 to 6, "That if the SAMC will acquire land, at least 60% of its outstanding capital stock shall be owned by Philippine nationals".

Senator Pimentel. So there is a provision that--

Senator Recto. There is a safeguard, yes, Mr. President.

Senator Pimentel. --safeguards the constitutional intent, Mr. President.

Senator Recto. That is right.

Senator Pimentel. All right. There is also the observation that I gathered from my talks with some people in Davao that they believe this bill is antipoor. Will the sponsor kindly reply to that?

Senator Recto. I do not think that the bill is antipoor, although there is a provision here that may be amended later on on the restraining orders or TROs to be issued by the courts because there is a provision

here that leaves it to the regional trial court.

So, if one is a small borrower with a P400,000 loan--and that is a threshold for the municipal trial courts--he cannot go to the court.

I would gladly accept anyone who would be willing to delete this provision.

Senator Pimentel. There is also an observation, Mr. President, that SAMCs reward inefficiency and negligence of the ones operating the banks, for example.

Senator Recto. Could the distinguished gentleman repeat the question, Mr. President?

Senator Pimentel. There is an observation that the SAMC device that we are trying to pass here would reward inefficiency and negligence.

Senator Recto. How is that Mr. President?

Senator Pimentel. Well, obviously, the nonperforming assets are the results of perhaps laxity in safeguarding, as we know,...

Senator Recto. Not in all cases, Mr. President, because I think the distinguished gentleman realizes that in 1997, we had a financial crisis, and many of our businessmen who were growing between 1992 to 1997 suddenly found themselves with the peso depreciation from P26 to US\$45, at no fault of theirs, and the interest rates shooting from 9%, 10% probably to about 30%. So, some of them did not make these bad business judgments but were affected because of the macroeconomic environment.

Senator Pimentel. Mr. President, the sponsor mentioned 1997 as--

Senator Recto. As an example, Mr. President.

Senator Pimentel. Yes. It would be good, Mr. President, if the sponsor's financial experts seated beside him could probably, as we know, make a report on 1997 related indebtedness that were incurred by borrowers which made it impossible for them to redeem their properties.

I know for a fact that in Cagayan de Oro, a friend of mine borrowed some money and the interest rates shot up so high that he just had to fold up. I understand he is on the verge of bankruptcy today as a result of that.

It will really be good for a fuller understanding of what is really happening for us to be informed in a more formal manner by the gentleman's experts by means of records that they can probably submit to us.

Senator Recto. Yes, I am requesting the Department of Finance, if it has any of these records or studies for that matter with regard to our experience after the 1977 financial crisis and how these relate to the NPAs of our banking system today, to please submit for the record these reports or observations or conclusion so that we can insert in the *Record* of this proceeding as well, Mr. President.

The following is the report of DOF on 1997 Related Indebtedness Incurred by Borrowers which Made it Impossible for Them to Redeem Their Properties:

(Insert)

Senator Pimentel. I would like to thank the gentleman for that, Mr. President.

There is also this observation that the SAMC device would actually be inflationary and unfair. How would the gentleman reply to that, Mr. President?

Senator Recto. I do not see the relationship with it being inflationary. Again, the reason we want to create this entity called "SAMC" is the realization that our banks have very high NPAs and there is no domestic capital available to reduce these NPAs. Therefore, there is need to invite some foreign investors such as a SAMC after considering the experiences in other countries as well so that we can reduce our NPAs and get on in improving the financial condition of our financial sector to lend to entrepreneurs and the like.

Senator Pimentel. Mr. President, this is just an example of what is being felt by some people who have talked to this representation to impress upon me that while the *sari-sari* store pays documentary stamps, registration fees, capital gains tax, the SAMCs do not under the terms of the gentleman's proposal.

Senator Recto. Only as far as their transactions involving nonperforming assets are concerned. If they were to purchase any other asset which is not a nonperforming asset, they are not exempted, Mr. President. It is only attendant to nonperforming assets. So, if they were to invest in any other investment opportunity, they still have to pay all these taxes, DST, even income taxes and

the like, only as far as nonperforming assets are concerned.

Senator Pimentel. I would like to thank the gentleman for that information, Mr. President.

The gentleman is aware that the banks always declare dividends even in years that are supposed to be economically bad.

Senator Recto. Yes, Mr. President.

Senator Pimentel. What then is the rationale for our bailing them out, Mr. President?

Senator Recto. Mr. President, it might be of interest for the gentleman to know that there is a provision here that any tax savings that the banks derive from the NOLCO provisions cannot be utilized for dividend declaration but only for a capital buildup of the bank. So, we have looked into that issue.

The gentleman is right when he says that banks do declare or may have declared dividends in the previous years even if they have high nonperforming assets or even if their financial condition was not good enough. Nevertheless, we seek here in this bill that any tax savings that they are able to generate be utilized in the form of capital buildup and we are not allowing them to use this for dividend declaration.

Senator Pimentel. Mr. President, it is not so much their possible use of the benefits they will get from SAMCs for declaring dividends to their stockholders or shareholders. But the question is more focused on the apparent loss of reason for our approving SAMCs for the banks which have been

declaring dividends anyway during all these years when we assumed that they were not doing so well. In other words, the question is: Why should the people come to the rescue of the banks if after all they have been doing well?

Senator Recto. I agree with the gentleman, Mr. President. In fact, it was also debated last week that the resources of the banks in the last decade have grown fivefold, but their taxes have been diminishing over the last decade, and these are found in the records of the debates. Nevertheless, there is a problem attendant today that the NPAs of the finance institutions are so high, which is one of the main reasons that the banks are not lending today to our entrepreneurs, to SMEs or small and medium-scale enterprises, or even to these distressed companies, especially in the provinces because of the very high nonperforming assets that they have.

Senator Pimentel. Have the banks as a sector made any request of Congress to pass these SAMCs?

Senator Recto. Yes. They were part of the committee deliberations. Naturally, the BSP and the BAP, the Bankers Association of the Philippines. It has been reported in several newspapers very often, some on a daily basis and some on other occasions, that they are awaiting the passage of this bill.

Senator Pimentel. I understand, Mr. President. Is this correct that 31 local banks will be benefited by the SAMCs?

Senator Recto. By and large, I think all the domestic banks.

Senator Pimentel. Would the number "31" ring a bell in the gentleman's mind?

Senator Recto. Forty-four banks, Mr. President.

Senator Pimentel. Would that be both foreign and local?

Senator Recto. That is right, Mr. President.

Senator Pimentel. Forty-four banks. How many would be local?

Senator Recto. Thirty-one local banks, Mr. President.

Senator Pimentel. Thirty-one local banks, and therefore, 13 foreign banks.

Senator Recto. Yes, that is right.

Senator Pimentel. Again, for the completion of our records, I think it is important that we put the names of these banks into the *Record*.

Senator Recto. Yes, Mr. President. I can submit this for the *Record*.

The following is the list of 31 local banks that will be benefited by the SAMC:

Insert

Senator Pimentel. Good. So the gentleman has the list already?

Senator Recto. Yes, we do have a list. Maybe after the debate. I may need this to answer some of the gentleman's questions.

Senator Pimentel. Yes, Mr. President. Now, CREBA has made some specific recommendations that the SAMC be used as a device to help rehabilitate, improve, expand development assets through the build-operate-transfer law. Is the gentleman aware of this recommendation of CREBA?

Senator Recto. Yes, I recall reading such a request, Mr. President.

Senator Pimentel. Would the gentleman have any response to that request?

Senator Recto. The truth of the matter is that I do not understand the request, Mr. President.

Senator Pimentel. Now, they were talking about condominiums that are lying idle or have been built but are not being, I suppose...

Senator Recto. It is part of the powers of SAMC, that they can if they so desire.

Senator Pimentel. I understand from my hearing of Senator Biazon's concern yesterday that there was a proposal to phase out individual housing from the coverage of SAMCs. Is the gentleman aware of that? Coming from CREBA again.

Senator Recto. No, I am not aware of that. I think it may greatly affect the small buyers by allowing the SPAV to operate in our country assuming that the SPAV were to purchase these NPAs of the GSIS, SSS or Pag-IBIG or of the housing authorities at a stiff discount, they could offer these to the families, small-

income families at lower rates, maybe even lower interest costs, lower interest rates, so on and so forth. That is a benefit to the small families, small-income families that need housing as well, Mr. President.

Senator Pimentel. There is this observation also that behest loans may find their way into the SAMCs. Would the sponsor kindly respond to that, Mr. President?

Senator Recto. A very good point, Mr. President. I think that if there are behest loans in the public sector, there must be behest loans as well in the private sector.

If the gentleman, at a future date, would want to assist this representation to put a particular provision in the bill which was there in the original committee report, but I had difficulty in defining "private sector behest loans" for that matter. But if the gentleman can help me craft the appropriate language, I would gladly accept any amendment from the gentleman from Mindanao.

Senator Pimentel. Mr. President, regarding behest loans in private banks, that may not be too much of our concern but certainly, behest loans in government financial institutions would be a serious concern for us. So maybe, we can limit the observation or the amendment of the sponsor so that...

Senator Recto. I think, frankly speaking that these are both equal issues that need to be addressed. Even in the United States, corporate governance is a very major issue today.

Senator Pimentel. Mr. President, are we still talking about the amount of US\$20

billion that may be raised through this device?

Senator Recto. Excuse me.

Senator Pimentel. The US\$20 billion dollars, have we ever talked about that?

Senator Recto. No, Mr. President. I would assume that if there is a total universe, let us say, of P500 billion NPAs, then at most that could come in, in terms of foreign investment, would be about US\$10 billion, assuming that the SAMCs would be totally interested in purchasing all these NPAs.

Senator Pimentel. Finally, Mr. President, some of these banks that are going under because of so many nonperforming loans, nonperforming assets could probably have been subjected to DOSRI loans.

Would the Central Bank be able to give us a list of where this has happened?

Senator Recto. I think that rightfully so that the BSP should provide again this Body a list of DOSRI loans that it would have.

Senator Pimentel. And make it a part of the record of this.

Senator Recto. Yes, to make it a part of the record, and in line with our issue earlier on behest loans and corporate governance issues, it is something that could be looked into as well.

The following is the list of DOSRI loans:

Insert

The President. In fact, the financial statements of the banks published in the newspapers would include an item of DOSRI loans.

Senator Pimentel. Yes. Probably, therefore, the Central Bank would have no difficulty providing us with that list, Mr. President.

Senator Recto. Yes, Mr. President.

Senator Pimentel. May I thank the gentleman for this, Mr. President.

Senator Recto. Thank you, Mr. President, for the interpellations of the gentleman from Mindanao.

The President. Thank you.

All right. So the Majority Leader is recognized.

Senator Pangilinan. Sen. Joker P. Arroyo wishes to be recognized.

Senator Arroyo. I just want to know what happened to my amendment.

The President. We are going to take it up now, Senator Arroyo.

All right. Just for the record, can the amendment of Senator Arroyo be once more read, and that is an insertion on page 13?

Senator Arroyo. Page 13, line 10.

The President. All right, please read it again.

ARROYO AMENDMENT.

Senator Arroyo. *PROVIDED* THAT THE TAX EXEMPTIONS, INCENTIVES, AND FEE PRIVILEGES GIVEN TO FIS AND SAMC AT THE VARIOUS STAGES OF THE TRANSACTIONS UNDER THIS ACT SHALL LIKEWISE BE EXTENDED TO ANY PERSON, PARTY, OR ENTITY.

The President. All right, what does the sponsor say?

Senator Recto. It is accepted, Mr. President.

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

Senator Recto. But just for the record, just to clarify that, we are talking about NFAs.

The President. All right, we will proceed. Is there any other amendment on page 11?

Senator Pangilinan. Senator Estrada wishes to be recognized, Mr. President.

Senator Estrada. Mr. President, during last week's session, I proposed an amendment.

On page 11, line 21 of Section 14, delete the phrase "and from a SAMC to a third party". The first sentence of Section 14 shall now read as follows:

"SEC. 14. *Tax Exemptions and Fee Privileges.* - Any existing law to the contrary notwithstanding, the transfer of NFAs from the

FI to a SAMC or dation in payment (*dacion en pago*) by the borrower in favor of an FI OR IN FAVOR OF A SAMC shall be exempt from the following taxes:

Senator Recto. Mr. President, I understand where the lady Senator is coming from insofar as the arguments she intends to present are concerned. However, if we were to accept that amendment, then we would defeat the entire purpose of the bill--to provide incentives for SAMCs--to come in because of the realization of the lack of domestic capital anyway to be able to reduce the NPAs of our financial institutions. And therefore, reluctantly, I would not be able to accept the amendment of the lady Senator from San Juan.

Senator Estrada. My rationale regarding this proposed amendment are: No. 1, on January 1997 before the Asian financial crisis which happened in July 1997, BSP Governor Singson issued a memorandum circular telling the banks to put a 12% cap on the real estate but this was not followed. So the NPLs on real estate stand at, more or less, 20% of banks' lending portfolio; and Sen. Joker Arroyo spoke about unsound practices last week and we will be rewarding the banks for their mistakes.

No. 2, the purpose of the law is to attract investors, Mr. President, and the financial institutions unloading a 30% value plus two tax exemptions are enough incentives. Zonal value is not considered anymore applying only to non-SAMCs or individual or corporation that will be paying taxes.

No. 3, the total NPAs amount to P500 billion that is 6% so that the rate of P30 billion in capital gains and documentary stamps will be lost or 10% withholding tax. P50 billion will be lost by the government if

the SAMCs are given tax incentives in reselling the acquired NPAs to third parties and the government stands to lose at least P30 billion considering our dwindling economy. Tax exemptions on transfer to third parties will certainly exacerbate our present budget deficit and further tax exemption on transfer to third parties will give undue advantage to SAMCs vis-à-vis small developers and middle class real estate owners and consider the following: SAMCs will not pay taxes; small developers, individual sellers and others will. Thus, the playing field will not be leveled. In the end, the rich will get richer, the middle class will disappear and the poor will get poorer.

Senator Recto. Mr. President, I think the concerns of the lady Senator from San Juan are very valid. I think the amendment that she proposes has noble intentions. However, as I mentioned earlier, the bill at hand tries to address the issues of the NPAs of our financial sector and if we take away this tax privilege of the SAMC, then we may not be able to reduce the NPAs of our financial institutions.

SUSPENSION OF SESSION

The President. Can we have a one-minute suspension, if there is no objection? *[There was none.]*

It was 7:25 p.m.

RESUMPTION OF SESSION

At 7:28 p.m., the session was resumed.

The President. The session is resumed.

Sen. Luisa P. Ejercito Estrada is recognized.

Senator Estrada. I was clarified by the Senate President that Senator Arroyo's amendment will cover my amendments. So....

Senator Recto. Some of the concerns. Thank you, Mr. President.

The President. So, the Estrada amendment is withdrawn.

We now go to page 12.

The Majority Leader is recognized.

Senator Pangilinan. I think there is an anterior amendment proposal from Sen. Ramon B. Magsaysay Jr.

The President. Sen. Ramon B. Magsaysay Jr. is recognized.

MAGSAYSAY AMENDMENT

Senator Magsaysay. Thank you, Mr. President.

This is on Section 11 (B).

The President. Section 11 (B).

Senator Magsaysay. On page 10.

The President. Yes. Proceed.

Senator Magsaysay. Lines 6 to 7.

The President. Page 10, lines 6 to 7.

Senator Magsaysay. Yes. (B) All NFAs SOLD OR TRANSFERRED BY aN FI to a SAMC shall be

subject to prior CERTIFICATION...." The amendment is to add, after the word "CERTIFICATION" the phrase AS TO ELIGIBILITY AS NPA. So, the insertion of the term, after the word "CERTIFICATION": AS TO ELIGIBILITY AS NPA, continuing on "by the appropriate regulatory authority NOT LESS THAN THIRTY (30) DAYS PRIOR TO THE INTENDED DATE OF TRANSFER."

Senator Recto. It is accepted.

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

Senator Pangilinan. Mr. President, we are on page 11.

The President. We are now on page 12.

Senator Pangilinan. Page 12.

The President. Is there any amendment on page 12? [Silence] There is none, we go to page 13.

Is there any other amendment?

Senator Recto. Mr. President.

The President. Yes, Sen. Ralph G. Recto is recognized.

Senator Recto. Mr. President, I do not know what the rules will provide but if I may be allowed to introduce an individual amendment--

The President. Please proceed.

RECTO AMENDMENT

Senator Recto. Thank you, Mr. President. On page 13, from line 6 to line 10 which is, "PROVIDED, FURTHER" up to "JUNE 30, 2002". This is what we discussed earlier with Sen. John Osmena.

The President. All right. So, what is the pleasure of the sponsor?

Senator Recto. If we can delete this entire provision, Mr. President.

The President. All right.

Senator Recto. Page 13, line 6--

The President. Would this not open all transfers of NPAs, ROPOAs even after June 30, 2002?

Senator Recto. No, Mr. President.

The President. Would this not open these to--I mean, will this not be a loophole? So that--

Senator Recto. No, Mr. President.

The President. --even if these are not NPAs--

Senator Recto. No, Mr. President. Because what is clearly stated in the other provisions of the bill, we are only talking about NPAs here.

The President. As of what date?

Senator Pangilinan. As of June 30. It is in the *Applicability Clause*, Mr. President.

The President. So, the deletion of June 30 here will not--

Senator Recto. Will not, Mr. President.

The President. --result in a situation--

Senator Recto. That is right.

The president. --where we encourage NPAs--

Senator Recto. That is right.

The President. --from being--

Senator Recto. Yes, that is right.

The President. --after the effectivity of this bill.

Senator Recto. Yes, that is right.

The President. All right. So, it being a surplusage in effect. Is that what the gentleman is saying?

Senator Recto. Excuse me.

The President. Since it is also provided in another portion.

Senator Recto. Yes, that is right.

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

The Majority Leader is recognized.

Senator Pangilinan. We are still on page 13, Mr. President.

The President. Are there no more amendments on page 13?

Senator Pangilinan. We will proceed to page 14, Mr. President.

DRILON AMENDMENT

The President. Page 14? Consistent with the manifestation of the sponsor, may we move to delete the entire Section 18 and leave it to the present state of law. Meaning, that these injunctions that--we leave it to the present Judiciary Act and the *Rules of Court* on this issue rather than make a special provision here on Section 18.

Senator Recto. Therefore, we delete the entire section.

The President. Therefore the Chair moves to delete lines 21 to 26.

What does the sponsor say?

Senator Recto. It is accepted, Mr. President, consistent with our discussion with Senator Pimentel earlier.

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

Senator Pangilinan. We can now proceed, Mr. President, to page 15.

The President. Page 15. Is there any amendment to page 15? *[Silence]* There being no amendment....

Senator Pangilinan. We can proceed to page 16, Mr. President.

The President. Page 16. Is there any amendment? *[Silence]* Page 17. Is there any amendment? The Majority Leader is recognized.

Senator Pangilinan. There being no other amendments, Mr. President, we now move to close the period of individual amendments.

The President. All right. What is the pleasure of the Chamber? Would it want another pass or--

Sen. John H. Osmena is recognized.

Senator Osmena (J).. With a clean copy, Mr. President.

The President. With a clean copy.

The Majority Leader is recognized.

Senator Pangilinan. With the manifestation, Mr. President, of Sen. John H. Osmena, we will make another pass. We withdraw our motion to have the period of individual amendments closed.

The President. All right. The staff is directed to prepare a clean copy of the bill with the individual amendments accepted. And we will take this up once the clean copy is ready. When can the clean copy be ready?

Senator Recto. Tomorrow.

The President. Tomorrow, yes. So, the clean copy will be provided tomorrow.

SUSPENSION OF CONSIDERATION OF S. NO. 2116

Senator Pangilinan. Mr. President, I move that we suspend consideration of Senate Bill No. 2116.

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

Senator Pangilinan. Mr. President.

The President. Would the Chamber be prepared to accept the committee amendments in the Dual Citizenship bill so that we can see a clean copy tomorrow? If the sponsor will just be allowed to read the committee amendments so that tomorrow a new copy can be prepared.

SUSPENSION OF SESSION

Senator Pangilinan. I move that we suspend the session for one minute, Mr. President.

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

It was 7:36 p.m.

RESUMPTION OF SESSION

At 7:37 p.m., the session was resumed with the President Pro Tempore, Hon. Juan M. Flavio, presiding.

The President Pro Tempore. The session is resumed.

CONFERENCE COMMITTEE ON S. NO. 1855/H. NO. 4871

(Barangay Business Enterprises Act of 2001)

Senator Pangilinan. Mr. President, before we proceed with the committee amendments for the Citizenship Retention Bill, just some housekeeping matters.

We would like to manifest the following members of the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1855 and House Bill No. 4871. To represent the members of the Majority, we have Senators Ralph G. Recto, Robert S. Jaworski, and this representation, Francis N. Pangilinan, for the Barangay Business Enterprises Act.

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

Senator Pangilinan. For the Minority, Mr. President, the Minority Leader wishes to be recognized.

The President Pro Tempore. Sen. Vicente C. Sotto III is recognized.

Senator Sotto. Mr. President, for that particular Bicameral Conference Committee, the Minority would like to nominate Senators Edgardo J. Angara and Rodolfo G. Biazon.

MANIFESTATION OF SENATOR PANGILINAN
(Bicameral Conference to Start Tomorrow,
Wednesday, October 23, 2002)

Senator Pangilinan. Thank you, Mr. President.

Also, this is to inform our colleagues that the bicameral conference is set for tomorrow, Wednesday, October 23, at nine o'clock in the morning at Pecson Room.

The President Pro Tempore. It is so noted.

CONFERENCE COMMITTEE ON S. NO. 2104/H. NO.

3570

(Absentee Voting Act of 2002)

Senator Pangilinan. Another manifestation, Mr. President, for the Absentee Voting Bicameral Conference Committee. For the Majority, we have the following senators: Senators Joker P. Arroyo, the Majority Leader, Loren Legarda Leviste, Manuel B. Villar Jr. and this representation, Francis N. Pangilinan.

Senator Pimentel. Mr. President.

The President Pro Tempore. Senator Pimentel is recognized.

PARLIAMENTARY INQUIRY OF SENATOR PIMENTEL
(How Can Somebody Who Voted Against a Measure
Be a Member of a Bicameral Conference
Committee?)

Senator Pimentel. Just a parliamentary inquiry. How valid is it for Senator Arroyo to be a member of the Bicameral Conference Committee representing the Majority when he voted *no* to this measure? So, it looks like this more than meets the eye in this kind of an arrangement, Mr. President. Something has to be explained here under that setup.

So, I would like to raise that question. How can somebody who voted *no* now be a member of the Majority panel in the Bicameral Conference Committee?

The President Pro Tempore. The Majority Leader is recognized.

Senator Pangilinan. Mr. President, after conferring with the Senate President, there seems to be no explicit rule prohibiting a

member of the Senate who objected to a bill to be prohibited from participating in the Bicameral Conference Committee.

Senator Pimentel. Mr. President, there might be no explicit rule but there is a rule of common sense that should invest the actuations of this Chamber.

Obviously, Mr. President, how can anybody who voted against a measure represent the Majority and defend the actuations of the Majority? It is on that basis that I am raising this observation. If they want a full-scale debate on it, I am prepared to do so.

The President Pro Tempore. The Majority Leader is recognized.

Senator Pangilinan. Mr. President, in addition, Senator Arroyo is also a member of the Committee on Constitutional Amendments, Revision of Codes and Laws, and that would perhaps also explain his interest in this particular measure, notwithstanding, the fact that he voted against the measure.

The *Rules* again, we would like to reiterate do not prohibit such.

Senator Pimentel. All right. Mr. President, if that is the stand of the Majority, then we will start a full-scale debate on that issue. Certainly, I would like to stand right now that reason is defied by this kind of an arrangement where somebody who voted against a measure will now be a member of the Bicameral Conference Committee, especially representing the Majority. I mean, how can that be? I certainly would object to that and this is just the beginning. I want

to read into the *Record*, if they want to start this thing.

SUSPENSION OF SESSION

The President Pro Tempore. The Chair declares a one-minute suspension of the session, if there is no objection. [There was none.]

It was 7:41 p.m.

RESUMPTION OF SESSION

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

The President Pro Tempore. The session is resumed.

Senator Pangilinan is recognized.

MANIFESTATION OF SENATOR PANGILINAN

(To Withdraw His Previous Motion of Membership of Majority to the Bicameral Conference on S. No. 2104)

Senator Pangilinan. Yes, Mr. President, after consultation with members of the Minority and the Majority, I would like to withdraw the manifestation of the members of the Majority for the bicameral conference on the disagreeing provisions of the Overseas Voters Bill.

The President Pro Tempore. The manifestation is withdrawn. Please proceed.

BILL ON SECOND READING

S. No. 2130 - Dual Citizenship Act of 2002
(Continuation)

Senator Pangilinan. Mr. President, I move that we resume consideration of Senate Bill

No. 2130 as reported out under Committee Report No. 46.

The President Pro Tempore. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2130 is now in order.

Senator Pangilinan. Mr. President, we are in the period of committee amendments. The Senate President wishes to be recognized.

The President Pro Tempore. Sen. Franklin M. Drilon is recognized.

Senator Drilon. Mr. President, may we be allowed to submit the proposed committee amendments based on the debates on this measure, and we are introducing these into the *Record* to enable the members of the Chamber to go over a clean copy by tomorrow for purposes of the debates in the period of amendments.

A written proposal was submitted to the members of the Chamber 15 minutes ago. Please allow us to read the proposed committee amendments.

COMMITTEE AMENDMENTS

On page 1, line 6, after the word "to", insert the following phrase: MAKE PERMANENT SUCH CITIZENSHIP AND TO.

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

Senator Drilon. On page 1, lines 10 and 11, after the word "authorities", delete the phrase beginning with the word "or" up to the word "citizenship".

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

Senator Drilon. On page 1, line 13 to page 2, line 1, after the word "who", delete the phrase beginning with the word "are" up to the word "oath" on page 2, line 1.

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

Senator Drilon. On page 1, line 13, after the word "who", insert a comma (,) and the following phrase: AFTER THE EFFECTIVITY OF THIS ACT, BECOME CITIZENS OF A FOREIGN COUNTRY SHALL RETAIN THEIR PHILIPPINE CITIZENSHIP, UNLESS BY THEIR FREE, WILLFUL AND VOLUNTARY ACT THEY RENOUNCE UNDER OATH THEIR PHILIPPINE CITIZENSHIP BEFORE A PHILIPPINE CONSULAR OFFICIAL ABROAD OR ANY PUBLIC OFFICER AUTHORIZED BY LAW TO ADMINISTER AN OATH.

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

Senator Drilon. On page 2, line 4, between the words "naturalization" and "will", insert the phrase: SHALL NOT BE INTERPRETED AS A FREE, WILLFUL AND VOLUNTARY ACT OF RENUNCIATION AND THEREFORE.

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

Senator Drilon. Also on page 2, line 4, delete the word "reacquisition" and replace it with the word RETENTION.

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

Senator Drilon. On page 2, lines 4 to 9, delete subparagraphs "(b)" up to "(d)".

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

Senator Drilon. On page 2, lines 9 and 10, insert a new paragraph to read as follows:

FORMER NATURAL-BORN CITIZENS OF THE PHILIPPINES WHO HAVE LOST THEIR PHILIPPINE CITIZENSHIP BY REASON OF THEIR NATURALIZATION IN A FOREIGN COUNTRY ARE HEREBY DECLARED TO HAVE REACQUIRED THEIR PHILIPPINE CITIZENSHIP UPON EFFECTIVITY OF THIS ACT UNLESS THEY RENOUNCE THE SAME IN THE MANNER PROVIDED IN THE PRECEDING PARAGRAPH.

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

Senator Drilon. On page 2, lines 10 to 14, delete the entire paragraph.

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

Senator Drilon. On page 2, lines 15 to 18, delete the phrase starting with "Natural-born" on line 15 up to the word "That" on line 18.

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

Senator Drilon. On page 2, line 18, capitalize the letter "p" in the word "public".

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

Senator Drilon. On page 2, line 21, delete the phrase "Filipino parents who avail of the benefits under" and in lieu thereof, insert the phrase THOSE WHO REACQUIRE PHILIPPINE CITIZENSHIP UPON EFFECTIVITY OF.

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

Senator Drilon. On page 2, lines 22 to 23, delete the phrase beginning with the word "hold" on line 22 up to the word "parents" on line 23 and in lieu thereof, insert the phrase BE DEEMED CITIZENS OF THE PHILIPPINES.

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

Senator Drilon. On page 2, line 24, delete the word "valid".

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

Senator Drilon. On the same page, line 26, between the words "renunciation" and "made", insert the phrase OF PHILIPPINE CITIZENSHIP.

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

Senator Drilon. On page 2, line 26, between the words "by" and "parents", insert the words EITHER OR BOTH.

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

Senator Drilon. On page 2, line 27, and page 3, line 1, insert a new paragraph to read as follows:

THE BUREAU OF IMMIGRATION SHALL ESTABLISH AND MAINTAIN A REGISTRY OF THOSE WHO RENOUNCE PHILIPPINE CITIZENSHIP.

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

Senator Drilon. On page 3, lines 1 to 4, delete the phrase starting with the word "Unless" on line 1 up to the word "to" on line 4 and in lieu thereof, insert the following: THOSE WHO RETAIN OR REACQUIRE PHILIPPINE CITIZENSHIP UNDER THIS ACT SHALL.

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

Senator Drilon. On page 3, line 4, delete the word "shall" found in line 4 between the words "and" and "be".

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

Senator Drilon. On page 3, line 6, after the word "Philippines", insert the following phrase: AND THE FOLLOWING CONDITIONS.

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

Senator Drilon. On page 3, line 6, delete the words "Provided, That" and replace it with "(1)" in parenthesis.

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

Senator Drilon. On page 3, line 7, after the word "Constitution", insert the following words: AND EXISTING LAWS.

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

Senator Drilon. On page 3, line 7, delete the words "Provided, further, That" and replace it with "(2)" in parenthesis.

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

Senator Drilon. On page 3, line 8, delete the phrase "or appointive".

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

Senator Drilon. On page 3, line 12, after the word "oath", insert a semi-colon (;) and the following phrase: (3) THOSE WHO HAVE BEEN ELECTED OR APPOINTED TO ANY PUBLIC OFFICE SHALL SUBSCRIBE AND SWEAR TO AN OATH OF ALLEGIANCE TO THE REPUBLIC OF THE PHILIPPINES AND ITS DULY CONSTITUTED AUTHORITIES PRIOR TO

THEIR ASSUMPTION OF OFFICE; (4) THOSE INTENDING TO RESUME PRACTICE OF THEIR PROFESSION IN THE PHILIPPINES SHALL FIRST REAPPLY WITH THE PROPER AUTHORITY FOR A LICENSE OR PERMIT TO ENGAGE IN SUCH PRACTICE; AND (5) THE RIGHT TO VOTE OR BE ELECTED OR APPOINTED TO ANY PUBLIC OFFICE IN THE PHILIPPINES CANNOT BE EXERCISED BY, OR EXTENDED TO, THOSE WHO: (A) ARE CANDIDATES FOR OR ARE CURRENTLY OCCUPYING ANY PUBLIC OFFICE IN THE COUNTRY OF WHICH THEY ARE NATURALIZED CITIZENS AND/OR (B) ARE IN ACTIVE SERVICE AS COMMISSIONED OR NON-COMMISSIONED OFFICERS IN THE ARMED FORCES OF THE COUNTRY OF WHICH THEY ARE NATURALIZED CITIZENS.

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

MANIFESTATION OF SENATOR DRILON
(Directing the Secretariat to Prepare a
Clean Copy of S. No. 2130)

Senator Drilon. That is all, Mr. President. May we ask the Chair to direct the Secretary to prepare a clean copy of the bill for the debates tomorrow.

The President Pro Tempore. The Secretariat is hereby ordered to prepare the clean copy for tomorrow.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2130

Senator Leviste. Mr. President, I move that we suspend consideration of Senate Bill No. 2130.

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

MOTION OF SENATOR LEVISTE
(To Amend Sec. 13, Par. 15 of the *Rules*
Increasing Membership of the Committee on
Justice and Human Rights from 7 to 9
Members)

Senator Leviste. Mr. President, just a few housekeeping matters. In the October 15 session, we presented the motion to amend Section 13, paragraph 15 so that seven members of the Committee on Justice and Human Rights be increased to nine members. Having complied with the one-day notice under Section 136 of the Senate *Rules*, we now move to approve the amendment to Section 13, paragraph 15 of the Senate *Rules* so that the membership of the Committee on Justice and Human Rights be increased to nine members.

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

MOTION OF SENATOR LEVISTE
(Senator Villar as Additional Member to
Committee on Justice and Human Rights)

Senator Leviste. May we therefore move to nominate Sen. Manuel B. Villar Jr. to be the additional member coming from the Majority.

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

MOTION OF SENATOR LEVISTE
(Transfer of Referral of S. No. 2084 From
the Committee on Education, Arts and Culture

Primarily to the Committee on Justice and
Human Rights)

Senator Leviste. Also, Mr. President, I
move that we transfer the referral of Senate
Bill No. 2084, "An Act Declaring December 4 to
10, A National Human Rights Consciousness Week
in the Country" from the Committee on
Education, Arts and Culture to the Committee
on Justice and Human Rights primarily and
secondarily to the Committee on Education,
Arts and Culture.

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

Senator Leviste. Mr. President, may we
now proceed to the Reference of Business.

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

The Secretary will read the Reference of
Business.

REFERENCE OF BUSINESS

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The Acting Secretary [Atty. Reyes].

October 16, 2002

The Honorable
FRANKLIN M. DRILON
President of the Senate
GSIS Bldg., Financial Center
Pasay City 1308
Metropolitan Manila

Mr. President:

I have been directed to inform the Senate that the House of Representatives on October 15, 2002 approved the Bicameral Conference Committee Report on the disagreeing provisions of House Bill No. 1084, entitled:

AN ACT PROVIDING FOR A MORE RESPONSIVE NURSING PROFESSION, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 7164, OTHERWISE KNOWN AS THE 'THE PHILIPPINE NURSING ACT OF 1991' AND FOR OTHER PURPOSES

and Senate Bill No. 2292, entitled:

AN ACT PROVIDING FOR A MORE RESPONSIVE NURSING PROFESSION, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 7164, OTHERWISE KNOWN AS THE 'THE PHILIPPINE NURSING ACT OF 1991' AND FOR OTHER PURPOSES

Very truly yours,

(Sgd.) ROBERTO P. NAZARENO
Secretary General

The President Pro Tempore.

To the Archives

BILLS ON FIRST READING

The Acting Secretary. Senate Bill No. 2391, entitled

AN ACT ESTABLISHING APO REEF IN SABLAYAN, OCCIDENTAL MINDORO AS A PROTECTED AREA AND ITS PERIPHERAL WATERS AS BUFFER

ZONES, PROVIDING FOR ITS MANAGEMENT,
FUNDS AND FOR OTHER PURPOSES

Introduced by Senator De Castro

The President Pro Tempore. Referred to
the Committees on Environment and Natural
Resources; and Finance

The Acting Secretary. Senate Bill No.
2392, entitled

AN ACT INSTITUTING A NATIONAL UNIFIED
IDENTIFICATION SYSTEM AND CREATING
THEREFOR THE NATIONAL REGISTRATION
COORDINATING COMMISSION, AND FOR OTHER
PURPOSES

Introduced by Senator De Castro

The President Pro Tempore. Referred to
the Committees on Constitutional Amendments,
Revision of Codes and Laws; and Finance

RESOLUTION

The Acting Secretary. Senate Concurrent
Resolution No. 10, entitled

CONCURRENT RESOLUTION CREATING A JOINT
SELECT COMMITTEE ON CONSTITUTIONAL
AMENDMENTS OF THE SENATE AND HOUSE
OF REPRESENTATIVES TO DELIBERATE
AND CONDUCT JOINT HEARINGS AND
CONSULTATIONS WITHIN THE COUNTRY TO
DETERMINE THE SENTIMENT OF THE
PEOPLE REGARDING THE NEED TO REVISE
AND/OR AMEND THE 1987 CONSTITUTION
OF THE PHILIPPINES

Introduced by Senator Angara

The President Pro Tempore. Referred to
the Committees on Constitutional Amendments,
Revision of Codes and Laws; and Finance

The Majority Leader is recognized.

ADJOURNMENT OF SESSION

Senator Leviste. Mr. President, I move
that we adjourn today's session until three
o'clock tomorrow afternoon, Wednesday, October
23, 2002.

The President Pro Tempore. Is there any
objection? [Silence] There being none, the
session is adjourned until three o'clock
tomorrow afternoon, Wednesday, October 23,
2002.

It was 7:59 p.m.