

RECORD OF THE SENATE

TUESDAY, MARCH 23, 1999

ROLL CALL

OPENING OF THE SESSION

At 3:26 p.m., the Senate President, Hon. Marcelo B. Fernan, called the session to order.

The President. The 78th session of the First Regular Session of the Eleventh Congress is hereby called to order.

We shall be led in prayer by Sen. Gregorio B. Honasan.

Everybody rose for the prayer.

PRAYER

Senator Honasan. Panginoon, Ama naming Maykapal:

Marami na po kaming hiniling at patuloy na hinihingi sa Inyo para sa mamamayanang Filipino at sa aming bayan.

Hayaan naman Ninyo na kami ay magpasalamat kahit paminsan-minsan.

Salamat po sa katatagan ng loob at patuloy na pagsusumikap na ibinigay Ninyo sa amin. Sa Inyong takdang panahon, ito po ang magdudulot ng pambansang pag-unlad at ginhawa para sa nakararami.

Salamat po sa pilit naming pagpapalawak ng mahinahon, malaya at mapayapang pananaw at pag-iisip. Sa angkop na sandali, magbubunga po ito ng pagkakaisa, katahimikan at kapayapaan, pagpapatawad at makahulugang pagkakaunawaan at pagbabago.

Salamat po sa pinagbuklod at angking talino naming mga Filipino; kakambal ng taglay na ligaya sa aming puso at diwa.

Ito po ang magbibigay ng tibay at kakaibang lakas upang matunton namin ang piniling landas at magtagumpay laban sa patuloy na hamon ng iba't ibang uri ng karahasan, katiwalian, kahirapan, patuloy na pang-aabus sa mga karapatang pantao at kalikasan, at pagiging makasarili.

Patuloy po Ninyo kaming pagpalain.

Siya nawa.

The President. Thank you, Senator Honasan.

The Secretary will please call the roll.

The Secretary, reading:

Senator Teresa Aquino-Oreta Present
Senator Robert Z. Barbers Present
Senator Rodolfo G. Biazon Present
Senator Renato L. *Compañero* Cayetano Present
Senator Anna Dominique M.L. Coseteng Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Juan M. Flavio **
Senator Teofisto T. Guingona Jr. Present
Senator Gregorio B. Honasan Present
Senator Robert S. Jaworski **
Senator Loren B. Legarda-Leviste Present
Senator Ramon B. Magsaysay Jr. Present
Senator Blas F. Ople **
Senator John Henry R. Osmeña Absent*
Senator Sergio R. Osmeña III Present
Senator Aquilino Q. Pimentel Jr. Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present
Senator Miriam Defensor Santiago **
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
The President Present

The President. With 18 senators present, there is a quorum.

THE JOURNAL

Senator Drilon. Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider it approved.

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

Senator Drilon. I move that we proceed to the Reference of Business.

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

The Secretary will read the Reference of Business.

* Absent on account of illness

** On official mission

Senate Bill No. 1505, as amended, is approved on Second Reading.

BILL ON SECOND READING
S. No. 1519—General Banking Law of 1999
(Continuation)

Senator Drilon. Mr. President, I move that we resume consideration of Senate Bill No. 1519 as reported out under Committee Report No. 29.

The Presiding Officer [Sen. Pimentel]. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 1519 is now in order.

Senator Drilon. Mr. President, we are now in the period of interpellations. May I ask that we recognize the principal sponsor, Sen. Raul S. Roco, the chairman of the Committee on Banks, Financial Institutions and Currencies.

The Presiding Officer [Sen. Pimentel]. Senator Roco is recognized.

Senator Drilon. May I ask the Chair to recognize the Minority Leader, Sen. Teofisto T. Guingona Jr., for the interpellation.

The Presiding Officer [Sen. Pimentel]. The Minority Leader, Senator Guingona, is recognized for the interpellation.

Senator Guingona. Mr. President, will the distinguished sponsor of the measure yield for some questions?

Senator Roco. With some trepidation, Mr. President, but gladly.

Senator Guingona. Mr. President, is this bill being introduced to amend the General Banking Act at the instance of the World Bank?

Senator Roco. I am not sure how to put it, Mr. President. I do not think we can say "at the instance of the World Bank." Because as early as the Eighth Congress, there were bills seeking to modify the General Banking Act of 1949. This was carried onwards to the Ninth and the Tenth Congresses.

In the last three years, first to this representation's chairmanship and then the chairmanship of the Committee on Banks, Financial Institutions and Currencies, the Majority Leader now, there were extensive discussions done. So, it may not be fair to say that it is "at the instance of the World Bank." But there is interest on the part of the World Bank and the IMF in what they call "responsive reforms" of the financial structure in many countries.

Senator Guingona. And the responsive reforms seek to protect the public, the investors and, at the same time, there is an implied condition that if the reform will not be made in accordance with their like, there may not be any World Bank accommodation for certain programs. Would that be a correct statement?

Senator Roco. I am not familiar and I cannot attest to the correctness of that statement. What I can say in all candor is that in the last budget hearings, the Department of Budget and Management stated that the Republic may be in receipt of \$200 million—I think it is probably a loan. There is a loan pending and \$200 million may be issued to precisely help in implementing these reforms. But the reforms are purely the creation of our committee and the past committees. I have not heard a single suggestion from anybody outside of the BSP, the banking community, the businessmen who thought they had need to manifest their opinions.

I can candidly say that they probably were very prudent in not suggesting it to the committee, if they even had anything in mind. To me, the responsiveness of the recommendations, Mr. President, is totally a product of Philippine minds.

Senator Guingona. Thank you for that, Mr. President. In the Classification of Banks, in Section 2, there is here on page 2, "Other classifications of banks as determined by the Monetary Board."

May we know what are the classifications of banks as determined already as of now?

Senator Roco. In the original version, Mr. President, they only enumerated from (A) to (F) because they could not think of other classifications. But just in case there might arise some new concepts, we thought we would give flexibility to the Monetary Board, and that is the catchall provision. But right now, we do not know and we are not conscious of any other classification that may be sprung upon us by the Monetary Board. But it is conceivable and possible that it can occur.

Senator Guingona. I see. As I understand it—please correct me if I am wrong—in the history of banking reforms as enunciated in the United States which resulted from the bank failures in the several bank crashes, in conjunction with the stock market crash in the late 1920s and early 1930s, the legislation at that time separated commercial banking from investment banking. Would that be a correct statement?

Senator Roco. To my understanding also, that is correct, Mr. President. What I understood from formal studies a long, long time ago—it seems so long when we were in school—was that the theory was to separate money business from commercial activity so that we shall not have a concentration of power and control. But this issue was addressed deliberately when we

created and adopted a concept of unibanks which I thought at that time was being patterned after Mexico.

When the unibanks came about, certain investments by the banks and certain commercial activities were subject to investments by the unibanks. That was the time, I think, when we departed from what I understood to be the classical division between money as a business and the commercial activities.

Senator Guingona. As I understand it, the relationship between a bank and the client is one of borrower to lender. Would that be correct?

Senator Roco. That is correct, Mr. President. In fact, we are particularly proud of the short definition that we have introduced as regards banks. The gentleman, I am sure, will recall the very tedious definition of the present banking law and we just adopted the classic definition that banks are entities that lend funds obtained in the form of deposits. So, the depositors are really creditors of the bank. So that is correct.

Senator Guingona. Yes. But when a universal bank is created, it is empowered to enter into allied and nonallied functions, and it can also go into establishing subsidiaries or acquiring subsidiaries that are allied or nonallied to banking. Would that be correct?

Senator Roco. That is correct. In fact, there are a number of distinctions that separate the commercial bank from the universal bank. But it is correct when our distinguished friend and Minority Leader said that they can invest in equity of nonallied undertakings and they can own up to 100 percent of the equity of a financial intermediary other than a commercial bank or a bank. That is correct, Mr. President.

Senator Guingona. So that the relationship between a universal bank and a client would not necessarily be that of a creditor and borrower?

Senator Roco. Yes. That may not be the client in the same sense as used originally. Because here, they are not depositors. In fact, it is an investment by the unibank on the allied activity. The allied activity, whatever it may be, will not be a creditor, will not be a depositor in the universal bank.

Senator Guingona. As a matter of fact, the trend in the United States is one that veers away from the traditional mode of lending and veering towards trading in a number of financial instruments.

Senator Roco. Mr. President, I am not sure I can say it is a trend. But from the little exposure that I had with the American banking developments I have seen since 1974, the American

banks go beyond the limitations of the Bank Holding Act of the U. S., for instance, the state banking. I have seen even New York banks now present, I think in California—I am not sure, I do not know much about American law.

But I can appreciate the observation that derivatives and certain new modes of transacting business have been evolved by financial institutions, I think, in the United States and in Europe.

Senator Guingona. Yes. I recall, for example the Bankers Trust. It used to have prominence in lending. But as of 1993, I think lending had shrunk to about 18 percent, whereas trading went up to almost over 50 percent.

Therefore, the trend in the United States and if we are to follow the trend of the WTO-liberalized credit system, where money can flow freely beyond borders, in and out, the focus would be on trading rather than on lending. Because the profits to be derived from trading are much more attractive than they would in ordinary lending, which is understandable from the bankers' point of view. Would that be a correct statement?

Senator Roco. I think as a general proposition, Mr. President, it is correct to say that there are new modes of transacting financial transactions. One of them is that some may have higher yields, but they generally are connected necessarily to very high risks also.

Senator Guingona. Yes. Banks, for example, would like to deal in mutual funds. They would like to deal in options, in swaps, as the distinguished sponsor said, in derivatives, because they attract more. But my problem is, the Philippines does not seem to be ready for this kind of banking system nor is it what we need.

We need development banking. We need financial assistance for housing. We need to integrate our industries so that the exports can have more meaning than just importing 80 percent and then exporting and getting the value-added minimal labor employment.

But if the trend of banking will be followed, and I think it will be because profit is more attractive in trading rather than in lending, is the philosophy behind this Senate Bill No. 1519 to encourage that kind of trend or would there be sufficient safeguards?

Senator Roco. There are two things, Mr. President. Under the proposed bill, first, we maintain the present practice that banks cannot, in fact, engage in mutual funds.

Senator Guingona. I beg the gentleman's pardon?

Senator Roco. The banks, at present and under the proposed bill, will not be authorized to engage in mutual funds. I think it

is covered by the Investment Company Reform Act that is not yet the subject of the committee report. I suspect even, if my memory is correct, that the Minority Leader is an author of one of the mutual funds laws.

Second, that is the reason we classified the banks so that they can have their own niche or service orientation.

Third, we commend to the attention of the Minority Leader Section 45 on page 21 on the Development Assistance Incentives where the Bangko Sentral may provide incentives to banks which, without government guarantee, extend loans to finance educational institutions, cooperatives, hospitals and other medical services, socialized or low-cost housing, local government units and other activities with social content, which, in fact, contains the idea and the principle that the distinguished member is suggesting that development banking may now be encouraged and evolved by the Monetary Board.

Senator Guingona. I would like to thank the gentleman for that. However, in the first instance of mutual funds, even if there is a prohibition, since universal banks are allowed to have subsidiaries that can engage in mutual funds and trading transactions, the prohibition may not apply to them.

Senator Roco. Yes, Mr. President. I am told by our technical advisers that they can engage in the management companies that manage mutual funds but not directly in the mutual funds itself. So the management can be monitored and supervised by the Monetary Board. But this is one layer away.

Senator Guingona. Yes, it is one layer away, but there is somewhere here that the universal banks, as well as its branches and affiliates, will be regarded as one.

Senator Roco. That is for the branching, Mr. President, so that they all will be utilized and will be considered as one unit. The same standard was used in the branching of foreign banks when they entered here. The Makati head office of BPI, for instance, is one as a juridical unit together with all its 300 branches.

Senator Guingona. Not only mutual funds but the subsidiary can engage directly in swaps, in futures, for example, in exchanging dollars to yen and yen to dollars and can even have derivatives so that this universal bank will have, in the process, more availments of more funds, more profits. This is not prohibited. As a matter of fact the trend as we submitted earlier, would be in that direction because that is where the profit is most.

Senator Roco. As I understand it, Mr. President, it is a standard practice by any bank. Any bank can engage in derivatives, even the thrift banks. As I understand it, it is not so much for profit, although there are those who would do profit, and that

is not illegal. But it is more as a service and as a hedge against downside risks. It is a very esoteric practice. So it is not so much sanctioned by law, but it is a practice of finance men, unless we intend to prohibit it. But the bill does not in fact prohibit any of the practices that bankers normally perform which might mitigate their losses or their risks.

Senator Guingona. Mr. President, my point is that these banks are allowed precisely by law to engage in, not necessarily banking only, not mainly even, but the bulk of activities may go into trading.

What I am asking the distinguished sponsor is, is it all right if we are already a developed society or if we are a propertied society like Hong Kong, but the need of the country does not seem to be in that direction? The distinguished sponsor said that mutual funds—there are safeguards—is prohibited. But as he himself admits, there is management and supervision, and this does not apply to other forms of instruments, financial instruments that the bank can engage in.

Senator Roco. Mr. President, maybe I was not too clear. The mutual funds is one aspect and the banks can invest in a management company that manages mutual funds. They cannot manage directly. But the mutual funds, as far as I can understand it, is, in fact, a way of accumulating huge investible funds to the extent that small collections and groupings of funds can become huge mutual funds. They are really a source of developmental funds. That is one thing.

It is another when we discuss the derivatives, whether options, swaps or whatever hedge funds that he may refer to. These financial instruments can also be used by the mutual funds. The banks try to lower their risk with the use of derivatives. The good banks and the good finance men lower their risks. And those who do not, well, they maximize their risks and lose money. So that what I am trying to clarify, Mr. President, is that the derivatives and the mutual funds are two different facets, while banking includes foreign exchange and protection against the fluctuations of the foreign exchange through derivatives, whether forwards or futures or trading in currencies or swaps, and all these which can be very complicated.

I personally do not fully appreciate it. Maybe, one of these days, Mr. President, when I fully understand it, I will go into banking. But I just have a general notion of how we lower risk by using derivatives.

Senator Guingona. That is not really beside the point but that is not the point that I was driving at, Mr. President.

The Presiding Officer [Sen. Pimentel]. It was an honest answer anyway. *[Laughter]*

Senator Roco. Thank you, Mr. President, for the little blessings. [Laughter]

Senator Guingona. At any rate, if the trend is correct that banks, learning from their American counterparts, will veer away from the traditional modes of lending and go instead into financing activities, what authority would the Bangko Sentral have to put safeguards in place? Could the Bangko Sentral say so much for lending or so much for trading?

Senator Roco. Under the proposed bill, there is a reserve requirement. Certainly, the Bangko Sentral and the Monetary Board can impose many limits including on lending, on credit, and on supply of money.

So the answer to the gentleman is, yes, the Bangko Sentral, under the proposed bill, can address these problems with enough powers. In fact, I am a little afraid that maybe there are too many powers but with enough powers as presented in the report.

Senator Guingona. Would these powers hold good also for universal banks?

Senator Roco. Of course, Mr. President, we hope so. But if there are weaknesses right now in some words on the supervision of universal banks, we are certainly ready to examine them and see how best we can even better that supervision.

Senator Guingona. I would like to have the benefit of the thinking of the Bangko Sentral. As I understand it, I may be wrong, universal banks have the authority to establish subsidiaries, sister companies, and affiliates to do trading and financing, and have nothing to do with lending. I am afraid that whatever regulations that the Bangko Sentral would put up would apply only to banks, strictly speaking, but not to subsidiaries or affiliates.

Senator Roco. There is a particular section where the Bangko Sentral can, in fact, examine the affiliates and subsidiaries. I will find the appropriate section.

In the bill, the traditional banking services are covered very much by prudential guidelines. In addition, it grants sufficient powers to the Bangko Sentral to supervise, monitor, and even control foreign exchange and other services and what they refer to in the books as the exotic products, the exotic products having been alluded to in swaps, options, forwards, futures. If we are not familiar with the word, we would think that some of them are advances. It is not an appropriate subject for discussion in such a sedate subject as banking.

Senator Guingona. Under present laws, is the authority of the Bangko Sentral not limited to authorizing the banks or their

affiliates or subsidiaries to engage in trading and then the burden is shifted to the Securities and Exchange Commission to supervise under a responsive or free board of directors under the exchanges?

Senator Roco. Yes, Mr. President, I have found the section:

SEC. 6. Examination by the Bangko Sentral. - The Bangko Sentral shall have authority to examine an enterprise which is wholly or majority-owned or controlled by a bank.

So, even if it is minority-owned, if the bank has control. That is one.

Then on page 3, Section 4—*Policy Direction, Ratios, Ceilings and Limitations are Imposed by the Monetary Board.* Even quasi-banking functions, which seem to be a peculiar term used by Philippine banking law, are also adequately covered. So the committee exerted every effort to make sure that the strength of the Bangko Sentral in supervising and even controlling some aspects of banking and money are projected well here.

Senator Guingona. I thank the gentleman for that. May I now have the answer to that previous question which was not yet answered?

Senator Roco. I tried to answer all that I could remember. But which question I did not answer yet?

Senator Guingona. I thank the gentleman for pointing out those guidelines, Mr. President. But I was wondering: under the present laws, is the authority of the Bangko Sentral not limited to approving the authority of banks to engage in trading or their affiliates and then the supervision is transferred to the Securities and Exchange Commission with a board that is responsive only to supervision?

Senator Roco. No, Mr. President. All aspects of banking constitutionally and by the Bangko Sentral law are really covered by the Bangko Sentral and the Monetary Board. In addition to that, under the reported bill that we are discussing, there are certain modifications which we thought would even strengthen it.

No. 1, for instance, is that right now, examination by the Bangko Sentral is periodic or once every 12 months, and this has been used by some banks to prepare or to put cosmetic, to do window-dressing on their reports. Because they know that they are coming on June 1, so everybody gets ready for June 1.

Under the proposed bill, to avoid this or any possibility of window-dressing, the Bangko Sentral can now have periodic examinations not oftener than twice every calendar year, and it is

totally at the disposition of the Bangko Sentral when the officials do this. So they can do it on June 1 and again on July 1 just to be able to catch any mouse playing when the cat is away.

There is also an additional, and we call attention to Section 3, subsection 3.6 on prompt corrective action. The prompt corrective action seems to have established notions and standards by American law, and we also have a model for Japanese law on prompt corrective action. We anticipate that this will prevent instances like the Orient Bank where there was some delay in closing the bank under the prompt corrective action standards that the Bangko Sentral can now take.

Senator Guingona. Yes. That is a very good measure, specifically the periodic examination. I am only wondering whether the Bangko Sentral has enough auditors to do this considering that there will be many universal banks with many affiliates and many subsidiaries, and whether we can avoid the practice of assigning an auditor to the same bank for two or more years, which will make the auditor familiar, if not very friendly, with the client. I think the basic principle is that the auditor should not be allowed to audit beyond...

Senator Roco. Yes. We have a member of the Monetary Board to my left and he notes this dutifully. They, in fact, rotate right now. I am also authorized to say that they are recruiting auditors. So anybody in the audience or anybody who has friends who are good auditors are welcome to apply.

Senator Guingona. May we know how many auditors they have?

Senator Roco. Approximately 600, Mr. President.

Senator Guingona. Six hundred?

Senator Roco. Yes, Mr. President.

Senator Guingona. May we know how many years each auditor is assigned to one bank?

Senator Roco. We cannot give the answer readily, but we can check on the average. But it is enough, Mr. President, to point out a policy guideline that familiarity should be avoided in terms of the assignment of auditors. I think that is a valid point.

Senator Guingona. Could we concretize that during the period of amendments?

Senator Roco. Yes, Mr. President, except that, apparently, the practice is—I am now being told, although they cannot answer how many years—after every examination, they rotate immediately.

My only concern with giving or concretizing in law some management practices is it might lose flexibility. But certainly, there is nothing going against the suggestion. And if they do rotate now after every examination, that may be a sufficient safeguard, Mr. President.

Senator Guingona. Since we are in audit, Section 3.4 says that periodic examination shall be conducted to determine whether an institution is conducting its business on a safe or sound basis.

What happens after the audit? Does the auditor give a formal advice or report to the client?

Senator Roco. Yes, Mr. President. And I think in the subsequent sections where we require full disclosures, these reports are made available to the public.

Senator Guingona. No. Is there no...

Senator Roco. Meaning, they discuss, they report. And here, because of the stress on disclosure and transparency, even these discussions or these reports can be made available to the public.

Senator Guingona. Can the Bangko Sentral give us some examples of prompt corrective actions?

Senator Roco. If the distinguished gentleman can hold on, Mr. President.

Again, prompt corrective action apparently is a norm that is used by banks. Right now, under Circular No. 181, still of the bill, certain prompt corrective actions are already institutionalized. For instance, for those undercapitalized, they are required to go up to 20 percent, or require the bank to execute a Memorandum of Understanding with the BSP binding itself, among others, to implement a viable capital restoration plan. Then the BSP will conduct a special examination and intensified monitoring.

In the literature I have with me, Mr. President—I just could not find the pages—the moral suasion also of the Bangko Sentral officials, of course, is called into action, and then eventually they do it by rules. If the bank is found to be significantly undercapitalized, again, there are a number of actions that are immediately required in terms of prompt corrective action. The BSP calls a meeting with bank directors and they discuss and agree on remedial measures. Then there is an intensification of monitoring by the Supervision and Examination Sector (SES) of the bank's financial condition. The BSP conducts immediately an extensive on-site examination, and the banks are required to execute a Memorandum of Understanding on viable capital restoration plan within 30 days.

There are more, Mr. President. I will furnish our distinguished

gentleman all these memos, together with the annexes, as an example.

Senator Guingona. I would like to thank the distinguished gentleman for that. Now, Section 3.6 also mentions quasi-banks. Is RSBS a quasi-bank?

Senator Roco. Which one is RSBS, the retirement system?

Senator Guingona. The Retirement Separation Benefits System.

Senator Roco. Of the Armed Forces?

Senator Guingona. Yes.

Senator Roco. It is a nonstock savings and loans association.

Senator Guingona. No, it is not the savings. It is a separation benefit system. Would that be a quasi-bank? It lends and invests.

Senator Roco. We will ask the Bangko Sentral officials if they have been licensed to perform quasi-banking functions. We understand that the information being given is that they have not been licensed to perform quasi-banking functions.

Senator Guingona. How about credit unions in labor unions?

Senator Roco. Again, the question will be whether there have been labor unions or credit unions that have been authorized to do quasi-banking. I doubt it also, Mr. President. They are saying, no.

Senator Guingona. Because there is a thin line between some jurisdictions falling within insurance and those falling under banking.

This morning, for example, the Presiding Officer chaired the investigation over a mutual benefit system for police personnel, authored by the Majority Leader. We asked them whether this was under government supervision and they said, yes. It was not under the Bangko Sentral but under the Insurance Commission. But they would eventually—because the collections are big—grow into investments, giving dividends, lending for housing, et cetera, perhaps, more than the life insurance phase of the activities. So later on, I think that would be properly under the authority of the Bangko Sentral. Right now, it is very much still in the infancy stage of just insuring for death and giving benefits for disability, et cetera.

May we know what is the exact meaning of quasi-banks, Mr. President?

Senator Roco. That is difficult, Mr. President, but I will try, and if I do this, I think my banking professor should revise my grade in law school.

On page 3, Mr. President, there is a formal definition and we will try to explain it later on. The quasi-banks refer to entities engaged in the borrowing of funds through the issuance, endorsement or assignment with recourse or acceptance of deposit substitutes.

Now the banks, as we mentioned, Mr. President, accept deposits and they lend. Some financial institutions cannot accept deposits, so they invented paper and they are referred to now as "deposit substitutes." On the basis of that, they have higher risks in the quasi-banking and they are not insured by PDIC.

So the difference between the banks and the quasi-banks, Mr. President, is that in the quasi-banks, the source of their funding is deposit substitutes as defined by the Bangko Sentral Law. The purchase or the proceeds from paper—instead of a deposit, they sell paper. And when they keep the money, they do this for relending. It is very similar to banking. It is the sourcing of the fund that is different.

But in the bill at hand, Mr. President, both functions are sought to be monitored and supervised strictly by the Bangko Sentral and the Monetary Board.

The Bangko Sentral also has given quasi-banking licenses to banks and some nonbank financial institutions in the bill. We have settled the argument that union banks and commercial banks are automatically entitled to engage in quasi-banking.

Senator Guingona. Would an entity have to apply with the Bangko Sentral to be covered?

Senator Roco. Yes, Mr. President. Under the bill, no one can engage in quasi-banking unless authorized by the Bangko Sentral.

Senator Guingona. Subject to the number of members?

Senator Roco. That is the licensing procedure, Mr. President. For instance, in the earlier examples of small-loan associations, they borrow among themselves, but it is very limited and so it is not closed. Sometimes maybe they are less than 20. They are not covered because they do not fall under the ambit of what we define "public."

Senator Guingona. If a universal bank acquires a subsidiary that engages in quasi-banks, it would not have to apply.

Senator Roco. Again, if there is a subsidiary with a separate legal personality, then I guess that subsidiary must acquire the

quasi-banking permission. If it is subsequently bought by the unibank, I guess all its prerogatives will follow the juridical personality.

Senator Guingona. And there is no need of application.

Senator Roco. I guess not, Mr. President. Under the present law, they have to. But in the proposed bill, the license to do quasi-banking, if acquired, follows the juridical person.

Senator Guingona. Considering the observations of this humble representation, could we not, at the proper time, introduce amendments so that some sort of safeguards can be made even if the one which acquires is a universal bank?

Senator Roco. Yes, Mr. President. In fact, all safeguards will be the focus and intent of the bill. So we shall certainly welcome all additions and improvements that will further protect the public.

Senator Guingona. Yes. For example, in Section 4, on page 3, it states: "The Bangko Sentral shall provide policy direction in the areas of money, banking, and credit."

Under this provision, can Bangko Sentral delineate and say, "Universal Bank, your total resources are so much. You can devote so much to trading, so much to lending." Would that be within the scope of this?

Senator Roco. First, that section—the first paragraph—was bodily lifted from the Constitution. Although it is branded new, it is a reiteration from the Constitution.

Second, I think in the context of the question, the answer will be yes, theoretically. Whether it is advisable for the Monetary Board to be doing that, telling the banks how to use their money may be difficult, in my own opinion, to the extent that we centralize these decisions on any group of people in the Philippines supervising 17,000 banks. I did not realize that we have 17,000 banks until I sponsored this bill. It is amazing. I am surprised. Well, that includes the thrift banks, the lending institutions, the cooperative banks. But it is amazing.

So, in terms of power, if the question is: "Does the Monetary Board have the power?", the answer is yes. In terms of exercising that power to intervene in the business judgment of the different boards, I think it is better for the Monetary Board not to do so.

Senator Guingona. This is a question of judgment and wisdom. But again, considering that there is a propensity for banks, at least in the United States—and I think it will follow here soon—to engage in trading rather than in lending, could the Bangko Sentral ng Pilipinas, at least for a limited time, not come to

the rescue of the nation's need for more lending rather than trading?

Senator Roco. Again, Mr. President, I am not sure what the distinguished gentleman refers to as trading.

May I just correct myself, Mr. President. There are 17,000 financial institutions and 7,000 of these financial institutions are banks. That really surprised me.

As far as the question of the gentleman is concerned, Mr. President, in one discussion with the Monetary Board over lunch when Governor Singson just came back from Hong Kong in a meeting with the central banks, there was an idea that in Japan and in Thailand, the government stood squarely behind every bank, almost as a warranty. So its government answered for everything, the 800 banks that collapsed in Thailand, and I do not know how many banks were in trouble in Japan. That seemed to be a good policy for them.

In our case, Mr. President, that is very difficult because of financial limits. For instance, even in the liquidating company that we created to restructure and reorganize the Bangko Sentral ng Pilipinas, we now have a committee investigating that. I would imagine it is very difficult for the government to shoulder all these responsibilities of private banks.

Senator Guingona. I think the distinguished sponsor was referring to the government of Japan backing the deposits 100 percent or supporting banks to a very substantial degree for the protection of the depositors, but that is also limited up to year 2001 or 2002. I was not referring to that; I was referring to the powers under Section 4, to provide ratios for trading and lending, so that what we perceived to be the nation's needs can be serviced rather than the banks devoting themselves mainly to trading. The distinguished sponsor already said yes but he questions its wisdom. It has the power, but the gentleman questions the wisdom.

Senator Roco. We can leave that to the Monetary Board, Mr. President. What the bill suggests are certain prudential ratios that the banks must live by, and I think we are now adopting the Bank of International Settlements and the Basel standards.

When we were discussing the Bangko Sentral law at that time, the feeling of both the banking industry and the Monetary Board was not to adopt the BIS standards. But here, they are very specific so that the ratio, the leveraging, and the ceilings are all within the power, and it is even suggested. In fact, the microenterprises are addressed in Sections 39 and 43. The developmental aspect that our distinguished friend is mentioning is also addressed in terms of the present bill.

Senator Guingona. So are they mandated? I mean, is it something like 20 percent must go to agricultural activities? Is that what the distinguished sponsor is referring to?

Senator Roco. Theoretically, it can be done. But again, when we mandate, for instance 20 percent, automatically we increase cost for others because we cannot lend. Look at the experience in agri-agra.

Senator Guingona. I beg the gentleman's pardon.

Senator Roco. When we mandate specific numbers, Mr. President, instead of flexibility—again I am saying that under the bill, technically, ... maybe if we will be favored by the gentleman by moving to my level, it is a little at the back, then we can hear each other better.

Senator Guingona. Yes, because my neck is already turning out to be more than Bangko Sentral's.

Senator Roco. Mr. President, now that we are at par, at least in the position at the back, in terms of power as conceived by the Bangko Sentral Law and even the bill, it can be done by the Bangko Sentral.

Our experience, Mr. President, had shown that when specific numbers or percentages were imposed, it had necessary cost effects. For instance, the gentleman said, "Lend to farmers of agri-agra 25%." But no one was borrowing; they could not lend because no one was borrowing. So, what happens? We have 25% of loanable funds not earning money. And so what the banks did was they put it in reserves, I think, or in treasury notes. They were not earning anymore by lending; they were earning from somebody else.

But that 25%, Mr. President, to the extent that they could not earn, somebody has to bear the cost. What the banks did was they added interest to the balance. So, we have 15% reserve, 25% agri-agra, that is 40%. The effective loan portfolio was only 60%. They must earn from 100%, and so it raised interest rates.

The answer to our distinguished friend is correct. Should the occasion arise, the Monetary Board can do so under the proposed bill. Whether they should do so, we leave to the collective judgment of the Monetary Board. There is some wisdom in the Constitution saying that we should leave them alone to figure out these things.

Senator Guingona. Yes, there is wisdom to that. However, we are crafting this bill and our perception is that we must do so, so that the direction of the banks will lean more towards development lending and not to trading.

Senator Roco. Can I just be clear about what the gentleman means by trading?

Senator Guingona. By trading, we mean the bank engages more in the use of, either directly or through subsidiaries, mutual funds, swaps, options, derivatives, and futures which make the banks earn more.

For example, the distinguished sponsor has already said that the argument against 20% or 25% for agriculture—and I agree with him—has been more observed in letter and not in substance, because the banks do not earn adequately. There is a reserve of 15% or 10%, sometimes 20%, and the bank's money of P100 is reduced to P0.90 which it must invest. This P0.90 can be invested by the bank, especially a universal bank, in trading because there is more intermediation profits to be made, more attraction for swaps that will earn more profits for the bank rather than lending on a long-term basis.

Senator Roco. Yes, Mr. President. I have no problem with the suggestions but they seem to me to be day-to-day management decisions of banks.

For instance, Mr. President, trading services, as described by our distinguished friend, depend upon customer needs. If somebody wants to buy forwards, if I am a bank, if I am paid well, I will give it to him and then I will protect myself also against the hedge. Maybe, it is appropriate at this time to suggest to our distinguished friend why the bill attaches itself to the Bank of International Settlements.

There are certain prudential—I do not have another word for this—there are certain existing limits within prudential standards. One of them, for instance, is as regards foreign exchange. Just to pursue the idea. In the BIS, there is really no foreign exchange. The rule that is followed is that new capital charges will be adopted and position limits recommended. But they do not specify; they leave it to us or to the Monetary Board, or our own monetary authority.

The present practice, as I understand it from this matrix given to me is that as far as foreign exchange exposure is concerned, today when there is an overbought position, meaning to say I think they hold too much foreign currency, the limit is 5 percent of the bank's capital. But when one oversells—meaning to say oversold one's foreign currency—he owes somebody for what he sold him in terms of foreign currency, the limit is 20 percent.

Now, these are within the allowable standards of the BIS and that is why it is a good objective standard because we did not make the BIS standards. Now, we have a guide and the Bangko Sentral and the Monetary Board will have to live within these standards.

Senator Guingona. So, if an auditor finds out that a universal

bank is engaging in operation that has only 15% lending and more than 70% in trading, even in that foreign exchange example, what can the Bangko Sentral do?

Senator Roco. Within the powers of the Monetary Board, it can intervene. I am under the impression though that while it is possible, it may be unlikely that a bank will do so. But should somebody do that, certainly under the powers given to the Monetary Board both in the Bangko Sentral Law and the proposed bill, it can intervene.

Senator Guingona. So, what is the total resources of a universal bank? What is the capital authorized?

Senator Roco. Today, Mr. President, it is P4.5 billion as the required minimum and I understand that by the end of the year it should become P4.9 billion, and by the middle of next year, it should become P5.4 billion.

Senator Guingona. May I know from the Bangko Sentral people what would be the ideal ratio between lending operations of a universal bank with P5-billion resources and trading?

Senator Roco. I am informed by a Monetary Board member that it is very difficult to suggest an ideal ratio because it depends on the risks and it depends on the services that one's customers ask for. So, one will compute always his risk as against his potential profit, the potential downside and it becomes a day-to-day financial management decision together with the bank managers.

Senator Guingona. Well, let us assume that the bank has a risk management analysis on a day-to-day basis and it goes 80 percent on trading but hedges so that the purchases of one kind of financial instrument is hedged by bonds, et cetera, assuming all of these, what would be the ideal ratio in the judgment of the Bangko Sentral people?

Senator Roco. They tell me, Mr. President, that it is very difficult. But if there is no deposit then there is nothing to lend. It needs deposits for the bank; a bank gets deposits; the bank lends these.

Senator Guingona. I assume that there is a prohibition against the deposits being used for trading purposes; otherwise, we may have another Barings Bank failure.

Senator Roco. Maybe we are not using the same terms to refer to the same things, Mr. President.

Senator Guingona. All right. May I rephrase the question. Can deposits be utilized for trading purposes in a universal bank?

Senator Roco. When we we say trading, for instance, can we use it to options?

Senator Guingona. To swaps. Yes, options, swaps, futures.

Senator Roco. The answer, I am told, is no because swaps are—there is no use of funds, these are just like standby arrangements.

Senator Guingona. So can that be a hard-and-fast rule that the deposits should never be utilized for trading?

Senator Roco. Yes. Again, Mr. President, it will depend on how the distinguished gentleman uses "trading" as a word. Because it is difficult to put in a law how the bank should be run. That is my problem, so I have no disagreements with the concepts so far stated by the gentleman. I just have some reservations about putting it in a law and making it, instead of acquiring flexibility for the financial structure, well, create manacles on the financial structure. That is my only reservation.

Senator Guingona. I understand, Mr. President. I also realized that it is very difficult to put it into a law. However, since we have the safeguards of periodic examination, periodic audit, et cetera, it is now up to the thinking of this Bangko Sentral and that policy and guideline directions which could spell the difference. And in the period of amendments I would propose some, I hope that they can consider it.

Senator Roco. Yes. Again, we have no problems with the concept, Mr. President. But if I may share the information on the balance sheet and the off-balance sheet items in the Philippine banking system as a whole, what is indicated here and maybe this will allay some of the fears of our distinguished friend.

Cash, for instance, in the total assets represents only 1.41% or P48 billion. Loans and discounts represent P1.8 trillion or 54% of the total assets of the whole banking structure. Investments, and probably, this is what the gentleman is concerned with in terms of trading on securities and these are basically government securities that represent only P595 billion because we are talking in trillions now—or 17.5%

So as of today, Mr. President, or as of June 1998, the concern for regulating trading, on securities specifically, is not very alarming because they represent only 17.54% of the total assets of the bank.

I also passed a note, Mr. President, that trading does not necessarily mean the buying and selling of stocks, but the deposits can be used for investments or to buy assets or foreign exchange.

Again, Mr. President, that will depend upon whether one thinks that the foreign exchange will become better in his favor,

whether we want to hold it in foreign exchange or in pesos. And that is a judgment call in every investor. But there are prudential limits for all these. There is a unanimous cry beside me.

Senator Guingona. I understand that that was the same situation in the '70s in the United States. But the trend seems to have been reversed so that today, investment, as we put it, and trading would have the more substantial sum in a financial statement of a bank.

Senator Roco. Maybe, because we have discussed the points sufficiently, Mr. President, if the gentleman has an idea on a rule on trading, then we can certainly look at it. But it is difficult without a specific suggestion on what we want to, or on how we want to regulate trading. It is difficult to come to grips with the issue.

Senator Guingona. May we sleep on it?

Senator Roco. Of course, Mr. President. But the senator must be careful with whom he sleeps with. *[Laughter]*

Senator Guingona. I am always careful.

Senator Roco. Of course, it is to be expected. But we certainly can sleep over it, Mr. President.

Senator Guingona. Then we can continue as soon as possible.

Senator Roco. On that note, it is a welcome relief.

The Presiding Officer [Sen. Pimentel]. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1519

Senator Drilon. Mr. President, may we move that we suspend consideration of Senate Bill No. 1519 under Committee Report No. 29.

The Presiding Officer [Sen. Pimentel]. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Roco. *Salamat, Ginoong Pangulo.* We are putting on record that we will give now to our distinguished friend Circular No. 181.

The Presiding Officer [Sen. Pimentel]. It is noted.

The Majority Leader is recognized.

Senator Drilon. Mr. President, there is an Additional Reference of Business. May I ask the Secretary to read it.

The Presiding Officer [Sen. Pimentel]. The Secretary will read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORT

The Secretary. Final Committee Report No. 30, submitted jointly by the Committees on Accountability of Public Officers and Investigations; Social Justice, Welfare and Rural Development; Government Corporations and Public Enterprises; Civil Service and Government Reorganization; National Defense and Security; and Urban Planning, Housing and Resettlement re

Privilege Speech of Senator Coseteng of August 5, 1998, entitled

FIRST CLARK CENTENNIAL CORPORATION

Proposed Senate Resolution No. 52 introduced by Senator Osmeña (J.), entitled

RESOLUTION DIRECTING THE SENATE BLUE RIBBON COMMITTEE TO INQUIRE, IN AID OF LEGISLATION, TO PROBE THE QUESTIONABLE DEALS AND LOANS OF THE PAST RAMOS ADMINISTRATION

Proposed Senate Resolution No. 231 introduced by Senator Santiago, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS, TO INVESTIGATE, IN AID OF LEGISLATION, THE ALLEGED QUESTIONABLE LEASING OF "VIP" HOUSES INSIDE THE CLARK AIR BASE AT RATES DISADVANTAGEOUS TO THE GOVERNMENT,

and Proposed Senate Resolution No. 235 introduced by Senator Biazon, entitled

RESOLUTION DIRECTING THE APPROPRIATE COMMITTEES TO INQUIRE, IN AID OF LEGISLATION, THE REPORTED IRREGULARITIES IN THE LEASING OF HOUSING UNITS LOCATED AT THE CLARK FIELD, PAMPANGA UNDER THE CONTROL AND SUPERVISION OF THE CLARK DEVELOPMENT CORPORATION,

recommending its approval.