

RECORD OF THE SENATE

TUESDAY, SEPTEMBER 14, 1999

OPENING OF THE SESSION

At 3:21 p.m., the Senate President, Hon. Blas F. Ople, called the session to order.

The President. The 22nd session of the Second Regular Session of the Eleventh Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Ramon B. Revilla.

Everybody rose for the prayer.

PRAYER

Senator Revilla.

Ama naming makapangyarihan, bukal ng buhay at kabanalan, sumasamba kami at nagpupuri kami sa Iyo sa hapong ito. Nawa ay manguna Ka sa bawat isa sa amin upang ang mga isyung tatalakayin namin ay maging ayon sa Iyong kalooban.

Taos-pusong pinasasalamat na Ka namin sa mga biyayang patuloy na ipinagkakaloob Mo sa amin. Gayundin, labis akong nagpapasalamat sa ibinigay Mong pagkakataon na mapalawig at mapanatili sa mundong ito dahil sa matagumpay na *triple heart bypass operation* na isinagawa sa akin.

Panginoon, idinadalangin din namin ang yumaong kapatid na si Celing Fernan. Nawa ay tinatamasa na niya ang kaluwalhatian ng buhay na walang hanggan sa Iyong piling.

Panginoon, ipinapanalangin po namin na sana ay magkaroon ng masusi at malawakang imbestigasyon sa isang malawakang reklamasyon sa dakong bayan ng Kawit, lalawigan ng Cavite na siyang dahilan ng madalas na pagbaha sa Binakayan, Kawit at sa mga karatig-bayan nito na nagdudulot ng panganib sa buhay at kabuhayan ng mga taong naninirahan na malapit sa lugar na ito.

Sumasamo kami na maging makatarungan sana sa pagpapasiya ang mga pinuno ng Estado at ang pamunuan ng simbahan sa isyu kung dapat o hindi dapat susugan ang Saligang-Batas. Ang magkakaibang pananaw sa isyung ito ay huwag nawang magbigay daan sa pagkakahati-hati ng damdamin ng sambayanan. Puspusin Mo po ang puso ng bawat isa ng Iyong pag-ibig upang makamtan ang katahimikan at katiwasayan na siyang minimithi ng sambayanan.

Ang lahat ng ito ay itinataas namin sa Iyo sa pamamagitan ng Iyong Anak na si Hesukristo kasamang Espiritu Santo.

Siya nawa.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

Senator Teresa Aquino-Oreta	*
Senator Robert Z. Barbers	Present
Senator Rodolfo G. Biazon	Present
Senator Renato L. Compañero Cayetano ..	Present
Senator Anna Dominique M.L. Coseteng ..	*
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Juan M. Flavier	Present
Senator Teofisto T. Guingona Jr.	Present
Senator Gregorio B. Honasan	Present
Senator Robert S. Jaworski	Present
Senator Loren B. Legarda-Leviste	Present
Senator Ramon B. Magsaysay Jr.	Present
Senator John Henry R. Osmeña	*
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	Absent **
Senator Vicente C. Sotto III	*
Senator Francisco S. Tatad	*
The President	Present

The President. With 16 senators present, there is a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Drilon. I move that we dispense with the reading of the *Journal* of Session No. 21, Monday, September 13, 1999 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.

* On official mission
** On account of illness

any move to empower the majority of the Filipino people, all because of the fear of a reduction in their incomes and economic power. Greed, as usual, is the main reason for this opposition to liberalization.

In the reality of today's political economies, we rarely see the consumers' interests prevailing over those of the businessmen capitalists. Because the latter are smaller in number, and therefore easier to organize, business interests can actively lobby for legislation to the detriment of the consumer sector which remains the silent majority.

Even the 200,000 to 400,000 *sari-sari* store owners who would benefit from retail trade liberation are the ones being misrepresented by the lobbyists of the mega retailers as the ones who would suffer the most. This is quite untrue and even malicious, to say the least.

In truth and in fact, it is the big retailers who want to continue to enjoy protection from competition. There are also the so-called "nationalistic groups" who impute lack of patriotism on the part of anyone who supports this measure. There are those who question my nationalism because of our proposal to share our retail trade sector with foreign investors, who claim that I may be too quick in prying open our economic heritage to foreign economic imperialism. There are even those who have been, in desperation, spreading outright lies in attributing business links between me and unnamed foreign outfits. Mr. President, I would like to say so here and now before my colleagues in the Senate that I have no financial interest in the retailing sector in the past, in the present, and I do not intend to have any in the future.

Mr. President, I trust in the capability of the Filipino. In fact, this is the very core of my belief and the very source of my courage in fostering yet another step towards developing the competence and ability of the Filipino to take on competition on a level playing field that will redound to his and his country's well being.

As we enter the millennium, Mr. President, I do not wish it said that this Congress chose to participate in tightening the umbilical cord that binds us to the perpetual bondage of protectionism and economic stagnation. Rather, I would like it said of us that we had the courage to move forward to face new challenges unmindful of political repercussions. I would like it said that this Congress acted to make the Filipino consumer king in his own country.

The passage of this bill, Mr. President, will therefore send strong signals to foreign investors that our country is serious about liberalizing our economy. It will also fulfill the commitment made by President Joseph E. Estrada in the Asean Summit in Hanoi in November last year. The liberalization of the retail sector was the

only bold measure that our President could offer. As host in this year's summit this November, our President should at least be able to finally fulfill his pledge.

Mr. President, I am honored, therefore, on behalf of the Committee on Trade and Commerce, to submit Senate Bill No. 153 for the consideration and approval of our distinguished colleagues—to ask them to bring about more jobs and lower prices for all Filipinos, especially the poor—and to participate in crafting a historic economic reform measure that would result, sooner than later, in a gentler economy, a kinder society and a better world for all who inhabit this beautiful land of ours.

Thank you, Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, we thank Sen. Sergio Osmeña III for that well-researched sponsorship speech.

SUSPENSION OF CONSIDERATION OF S. NO. 153

To enable our colleagues to study the measure extensively, I move that we suspend consideration of Senate Bill No. 153 under Committee Report No. 41.

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

SUSPENSION OF SESSION

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

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

It was 4:03 p.m.

RESUMPTION OF SESSION

At 4:04 p.m., the session was resumed.

The President. The session is resumed.

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 President. 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 still in the period of interpellations. For that purpose, may I ask the Chair to recognize the principal sponsor, Sen. Raul S. Roco.

The President. Senator Roco is recognized.

Senator Roco. Thank you, Mr. President.

Senator Drilon. The Minority Leader requests that he be recognized for the period of interpellations.

The President. The Minority Leader is recognized.

Senator Guingona. Thank you, Mr. President. Will the distinguished sponsor yield for some questions?

Senator Roco. Gladly, Mr. President, because all the answers are now ready and these are here beside me.

Thank you, Mr. President.

Senator Guingona. Looking at the answers beside him, these look very formidable.

Senator Roco. I hope the Minority Leader will yield. *[Laughter]*

Senator Guingona. Mr. President, may I just seek clarification? I have the same bill, I think it is dated March 17.

Senator Roco. Yes, it has a date of 17 March 99. That is what I am looking at.

Senator Guingona. It is Committee Report No. 29.

Senator Roco. That is correct, Mr. President.

Senator Guingona. And Senate Bill No. 1519.

Senator Roco. I have not altered anything since then.

Senator Guingona. May we just ask on page 5, Section 10, paragraph 2. Will this maintain the grandfather rule?

Senator Roco. No, Mr. President. In fact, it expressly discards the grandfather rule.

Senator Guingona. It expressly discards.

Senator Roco. Yes, Mr. President.

Senator Guingona. Therefore, a universal bank can have foreign subsidiaries.

Senator Roco. In the sense of a foreign corporation registered abroad or in the sense of...

Senator Guingona. Even a domestic corporation.

Senator Roco. I am not clear, Mr. President. A domestic foreign corporation.

Senator Guingona. Maybe, we should clarify the meaning of a domestic bank.

Senator Roco. A domestic bank, Mr. President, will be one that is organized under Philippine laws registered with the Securities and Exchange Commission, after recommendation by the Monetary Board under the BSP Charter. That is a domestic banking corporation.

Senator Guingona. And may foreign individuals own up to 40 percent of the voting stocks?

Senator Roco. Under Section 10 of the proposed bill, Mr. President, foreign individuals, nonbank corporations or travel credit card companies may own up to 40 percent of the voting stocks of a domestic bank.

Senator Guingona. So a domestic bank is 60 percent Filipino-owned and 40 percent foreign-owned.

Senator Roco. Yes, Mr. President.

Senator Guingona. If it organizes a subsidiary, what is the proportion of the subsidiary as far as citizenship is concerned?

Senator Roco. May we be more specific? So a domestic bank, let us say, BPI, can have subsidiaries. If it involves land, it will have to be 60-40 in favor of the Filipino. If it is a car-leasing company, I do not know if there is any nationality requirement. So BPI can have a partner with 60 percent foreign content or whatever their joint venture may be.

Senator Guingona. It can even be beyond 60 percent foreign.

Senator Roco. In fact, in the bill, as proposed, foreign banks can own 100 percent.

Senator Guingona. Foreign banks operating in the Philippines.

Senator Roco. A foreign bank can buy BPI.

Senator Guingona. So what would be the difference between a domestic bank and a foreign bank?

At this juncture, the Senate President relinquished the Chair to Sen. Juan M. Flavio.

Senator Roco. A domestic bank is the one that was incorporated in the Philippines.

Senator Guingona. But the foreign bank is exempt from the 60-40 rule?

Senator Roco. Mr. President, let us say, a foreign bank is registered in New York. I guess it will comply with whatever the rules in New York may be.

Senator Guingona. But can it operate here 100 percent?

Senator Roco. Under the Liberalization of Foreign Banks Law, Mr. President, Citibank, BA, Chartered, Hong Kong-Shanghai, plus 10 other banks, have been operating through branches. Others could have operated through direct incorporation. I think nobody has incorporated under a 60-40 rule, 60 percent in favor of the foreigner.

I think there is a new bank, Santander, the Spanish bank. Apparently, it has registered under a 60-40—60 Spanish and 40 Filipino, which is good because the investible equity is here. The Liberalization of Foreign Banks Law also allows foreign banks, whatever the equity mix, as long as these are publicly listed to buy into local banks.

Senator Guingona. What is the intent of this bill then in the example given? May BPI be bought 100 percent by a foreign buyer?

Senator Roco. Yes, Mr. President. If this law is approved, the local bank today can be bought. Section 12 of the old banking law has been modified. We used to have very complicated citizenship rules. But it will not happen. I doubt if BPI will sell.

Senator Guingona. But the first paragraph of Section 10 states: "Foreign individuals and nonbank corporations may own up to 40 percent of the voting stocks of a domestic bank." The Bank of the Philippine Islands, as an example, is a domestic bank.

Senator Roco. Yes, Mr. President.

Senator Guingona. The distinguished sponsor says that foreigners can own 100 percent by buying into the Bank of the Philippine Islands.

Senator Roco. Yes, Mr. President. An individual can buy 40 percent; a nonbanking corporation can buy 40 percent, but a banking corporation can buy 100 percent.

Senator Guingona. It is the banking corporation.

Senator Roco. Yes, Mr. President. In other words, theoretically, Deutsche Bank can buy. We are restricting the nonbanking because it may not know how to run the bank, and the individuals may also have limitations as to their equity holdings.

Senator Guingona. I see. Will this intent go to subsidiaries and affiliates?

Senator Roco. I am not clear on the question, Mr. President.

Senator Guingona. As I understand it, if the investment is more than 51 percent, it is a subsidiary.

Senator Roco. Yes, Mr. President.

Senator Guingona. If it is less than 25 percent, I think it is an affiliate.

Senator Roco. Mr. President, I am working on memory. Because of the period of time that lapsed since we first discussed this, I am ready to be corrected later on.

An affiliate, as I understand it, Mr. President, under international accounting rules, will be less than 50 percent. So 49 percent will be an affiliate. If there is control, 51 percent will be a subsidiary. But for purposes of consolidating—I think it depends on the country—under American rules, it must be at least 60 percent so that the United States will consider it consolidated when it reports to the U.S. Federal Board.

Senator Guingona. I hope the gentleman will excuse my having to ask: Are 12a and 12-Aa being amended by Section 10 on page 5?

Senator Roco. Section 10. May I call attention of our distinguished Minority Leader to Section 71. "Subject to guidelines provided under Section 3 of the Foreign Banks Liberalization Act, the Monetary Board may authorize a foreign bank to acquire up to one hundred percent (100%) of the voting stock of only one (1) bank organized under the laws of the Republic of the Philippines; *Provided*, That the Monetary Board may authorize any foreign bank, which prior to the effectivity of this Act has availed itself of the privilege to acquire up to sixty percent (60%) of the voting stock of a bank under the Foreign Banks Liberalization Act and the Thrift Banks Act, to further acquire voting

shares of such bank to the extent necessary for it to own one hundred percent (100%) of the voting stock thereof.”

In other words, if they came in under the liberalization law or under the Thrift Banks Law, they could own up to 60 percent. But if we will extend this privilege to a foreign bank that qualifies under the liberalization law—meaning to say, listed and then it has capital requirements—then they must apply to buy the other 40 percent that protects the original equity holders who are Filipinos. So that there was a bank that was sold and some Filipino stockholders were left behind. I think they may have neglected tender offer rules. But under this particular case, it will not happen because the Bangko Sentral can make sure that when it is sold, nobody is left behind the eight ball.

Senator Guingona. I see. So, the 10 foreign banks that were allowed have nothing to do with this?

Senator Roco. No, not yet. But the 10 banks, of course, will have an interest in acquiring it. We hope they acquire or merge. As I understand it, the Bangko Sentral is also pushing for a merger. And we hope if they are bigger, maybe, they will compete better not only within the Philippines.

Senator Guingona. May I go to page 8, Section 25.

Senator Roco. Is it Equity Investments of a Universal Bank in Non-Financial Allied Enterprises?

Senator Guingona. Yes, Mr. President.

Senator Roco. That is page 10.

Senator Guingona. Yes, page 10. This section allows 100% equity in allied enterprises?

Senator Roco. In a nonfinancial allied enterprises.

Senator Guingona. In allied enterprises. While Section 26 limits equity to nonallied enterprises to 35 percent. Is that correct so far?

Senator Roco. Yes, Mr. President.

Senator Guingona. It is 100 percent for allied enterprises, while Section 26 limits equity to nonallied enterprises to 35 percent.

Senator Roco. Yes, Mr. President. If allied, it can be 100 percent, if nonallied, then it is 35 percent.

Senator Guingona. If the bank then increases its equity

in a nonallied enterprise from 35 percent to 51 percent, then it becomes an allied enterprise?

Senator Roco. No, Mr. President. They cannot do it if this version is approved.

Senator Guingona. May I beg the gentleman's pardon?

Senator Roco. They cannot go beyond 35 percent. Maybe it will help, Mr. President, if I read what are the allied undertakings and then the nonfinancial allied undertakings. I will also give the Minority Leader this copy.

Equity investments in allied undertakings. The financial allied undertakings will be commercial banks, thrift banks, rural banks, cooperative banks, insurance companies, venture capital corporations; others will be leasing companies, investment houses, financing companies, credit card, financial institutions catering to small and medium-scale industries, and companies engaged in a foreign exchange dealership/brokerage. Essentially, it is allied financial services, it is an extension.

But in the nonfinancial allied undertakings where there are also 100 percent possible allied—*hindi ba*—warehousing companies, storage companies, safety deposit box companies, companies primarily engaged in the management of mutual funds—but not in mutual funds itself, they are not a mutual fund company. There are many others. Companies engaged in providing computer, management corporations engaged in activities similar to the management of mutual funds, insurance agencies, companies engaged in home building, companies providing drying and/or milling facilities, bank services corporations, Philippine clearing house corporation, warehousing and other post-harvest facilities, fertilizer and agricultural chemical pesticides distribution, farm equipment distribution, trucking, marketing of agricultural products.

But equity investment in nonallied or nonrelated undertakings will be enterprises engaged in physically productive activities in agriculture, mining, quarrying, manufacturing, public utilities, construction, wholesale trade and community and social services. This will include industrial park projects or industrial estate developments. This will also include financial and commercial complex projects including land development and building corporations arising from or in connection with the government's privatization program.

We must know that only an expanded commercial bank can invest in nonallied companies.

Senator Guingona. Does a nonallied company include engaging in stocks?

Senator Roco. Not in the enumeration that I read.

Senator Guingona. There is a gap in the restriction to nonallied enterprises. The equity shall not exceed 35 percent of the total equity in that enterprise nor shall it exceed 35 percent of the voting stock in that enterprise. There is, therefore, a gap between 35 percent to 51 percent which is allowed for an allied enterprise. In spite of the list, we would like to know what the reason is for this gap. Supposing the bank increases its equity to 50 percent, and there is a gap between 35 percent to 51 percent, what is the main reason?

Senator Roco. In the allied enterprise, the financial services and activities enhance banking. In the nonallied, they are basically commercial activities. It flows from the old bias to keep money business away from commercial activities to prevent undue concentration of economic power. So, we keep the bankers, the money men, to do money business; we keep the businessmen to do not monkey business but to do their business. Business is their business, commercial activities. If we maintain that, and it is only the Unibank which sort of crosses the line, the unibanks—or what is the technical term—the expanded commercial banks can cross that because it was part of the charter. I think a long time ago, I remember, it might have been in the early 80s when the unibank law was being formulated, one of the models was the Mexican model. It was thought that by having expanded commercial bank functions, the financial muscle they could generate may help development. I guess it is still being proven. In fact, the Bangko Sentral is requiring that we increase the trade in.

Senator Guingona. Would a corporation engaged in stocks organized by the main universal bank be considered an allied company?

Senator Roco. I think a stock brokerage will be an allied activity.

Senator Guingona. Will it be an allied activity?

Senator Roco. It will be, Mr. President.

Senator Guingona. On Section 27...

Senator Roco. Equity investments in quasi-banks.

Senator Guingona. There is a limitation to quasi-banks. Can we please get a definition of quasi-banks?

Senator Roco. Yes, Mr. President. I need a little time to find it among my definitions.

On page 3, we have this: "Quasi-banks shall refer to entities

engaged in the borrowing of funds through the issuance, endorsement, or assignment with recourse or acceptance of deposit substitutes as defined in Section 95," of the Bangko Sentral Law, "for purposes of relending or purchasing of receivables and other obligations."

I will read to the gentleman Section 95 of the Bangko Sentral Law. Deposit substitute is defined as "an alternative form of obtaining funds from the public other than deposits"—the IPO, the commercial paper that is floated—"for the issuance, endorsement or acceptance of debt instruments for the borrowers' own account for the purpose of relending or purchasing of receivables and other obligations. These instruments may include but need not be limited to bankers acceptances, promissory notes, participations, certificates of assignments and similar instruments with recourse and repurchase agreements. The Monetary Board shall determine what specific instruments shall be considered deposit substitutes for this purpose," et cetera.

Senator Guingona. What then is the purpose of the limitation?

Senator Roco. Under Section 27?

Senator Guingona. Yes, Mr. President, to limit equity investments. Is this to promote competition?

Senator Roco. Yes, Mr. President. It is hoped precisely to promote competitive conditions but the...

Senator Guingona. Because if it is to promote competition, does the distinguished sponsor not believe that this should be done through branches so that the branches can service more adequately the other areas in the country rather than limiting equity contributions? Because a quasi-bank with a shortage of financial capacity may not be a good entry point for servicing the community.

Senator Roco. Do I take it that our distinguished Minority Leader is suggesting that this power not be granted to the Monetary Board? Because it only says that the Monetary Board may further limit equity investments of unibanks and quasi-banks or for that matter, commercial banks. In fact, this probably could be edited—in universal or commercial banks—so that we can lose the last sentence. But it is just a grant of power.

Senator Guingona. My only concern is, if it is to promote competitions in financial markets, then the basis should be more branches rather than limitation of equity investments.

Senator Roco. Let me take that under advisement. I am not sure what is being recommended. But I certainly will study it and

discuss it at length because it is very technical. Right now I have no reaction toward amending this grant of power, but I have to think about it, Mr. President.

Senator Guingona. I would like to thank the gentleman for that.

May I go to Section 36.

Senator Roco. Section 36, page 18. Yes, please.

Senator Guingona. It says, "...loans and other credit accommodations against real estate shall not exceed sixty percent (60%) of the appraised value of the respective real estate security."

Senator Roco. Yes, Mr. President.

Senator Guingona. It seems to limit the borrowing capacity to real estate mortgages. It would widen the gap, it seems to me, between those who do not have properties to mortgage—the small ones—and the big ones who have no need of putting up collateral because of their track record in getting commercial papers. This ties up banks to refuse potential businessmen who have good ideas from acquiring the needed capital because they do not have the land to serve as collateral.

Could we modify this in the period of amendments so that loans which are badly needed need not be premised on real estate collateral especially if the real estate will have diminishing returns, and instead allow viable ideas, viable projects, industrial track records, et cetera, to be the basis of loans?

Senator Roco. Yes, Mr. President, if the Minority Leader is through, let me first state that I share totally—and I think it is a very good perspective—that loan collateralization need not be restricted to tangible property. In fact, in my own page 18, I have here—how about intellectual property that can be used as collaterals? It is a favorite theory of mine. In fact, I do not know why I did not put it already.

So I share the perspective, Mr. President. In fairness, in the drafting, Section 36 refers to real estate. Section 37 refers to chattels. Then other credit accommodations are covered by Section 38. Section 39 has other requirements for other credit accommodations.

But even as I point that out, I confess there is no specific recognition of how to use intangible properties because it is in fact a current development. When I refer to intangible properties, I do not only refer to patents or trademarks or trade names or copyrighted goods. Goodwill is one.

I was watching Greenspan last week. Apparently, it was a live speech of Greenspan. When common people, according to President Estrada, gets to agree with Greenspan, then may be we should listen to him. But I thought it was a great speech because it was Greenspan who was saying: "The developed world and the developing world should remember that when you look at the balance sheets, goodwill is part of the balance sheets. And it has value."

Therefore, the banking system must recognize this. Can we imagine, when one wants to sell Jollibee and McDonalds, he already paid them P5 million. He still sells the sandwich. He wraps the sandwich. They make him buy their cheese. They make him buy their hamburger. They make him buy their potato. And he already paid P5 million. Goodwill can convert to cash.

Senator Guingona. And remit foreign exchange.

Senator Roco. Yes, he remits outward or inwards. So it works both ways. That is why, Mr. President, I am glad that this perspective is being brought out. And I would have loved to have thought of it ahead of the Minority Leader. *[Laughter]*

Thank you, Mr. President.

Senator Guingona. I would like to thank the sponsor, Mr. President. Section 37 is along the same line.

Senator Roco. Can I just add a little bit? The 60 percent also... The limited guides under Sections 36, 37 and the other sections are ceilings and therefore the Monetary Board can have flexibility. The provision does not in any way limit acceptable collateral to real estate. It does not preclude loans being secured by other acceptable security. But even as, again, I say that, it is a great idea to put it in.

Senator Guingona. Yes, because the practice, naturally, is that the banks would like to pursue the old traditional line of being protected by solid real estate...

Senator Roco. Yes, Mr. President. May I also point out that in the last sentence of Section 39, the Monetary Board is enjoined to formulate rules and regulations which shall recognize the peculiar characteristics of microfinancing such as cash flow-based lending to the basic sectors that are not covered by traditional collaterals, the Grameen Bank being probably the possible model or something else that may be Filipino invented.

Again, having said that, Mr. President, I will be very happy if the Minority Leader will help us craft to mention other intangible properties in a way of encouraging the banks to accept entrepreneurial sound judgment as a basis even for lending.

Senator Guingona. I would like to thank the sponsor, Mr. President. We will try our best.

Senator Roco. Thank you, Mr. President.

Senator Guingona. Section 39, second paragraph says:

Toward this end, a bank may demand from its credit applicants a statement of their assets and liabilities and of their income and expenditures and such information as may be prescribed by law or by rules and regulations of Monetary Board to enable the bank to properly evaluate the credit application.

Mr. President, may I ask the distinguished sponsor whether this is not also another traditional requirement that would tend to favor big businesses which have all the facilities to present a nice window-dressed financial statement with the assistance of high-priced CPAs which small businessmen cannot afford? Will that not also discourage the big banks from lending to small but growing businesses especially if one is just starting out? The assets and liabilities would not tell the true picture of a potential Gates. Could we modify this also?

Senator Roco. Mr. President, that is the reason for the last sentence of Section 39, "In formulating rules and regulations under this Section, the Monetary Board shall recognize the peculiar characteristics of microfinancing, such as cash flow-based lending to the basic sectors that are not covered by traditional collateral."

Senator Guingona. That is the Monetary Board. If the Monetary Board were guided by something in the law which would give it greater flexibility, then it would lean to more progressive practices.

Senator Roco. We will welcome suggestions right now without specific wordings. It is our sense that that possible flexibility is covered by the last section. But we will certainly welcome other wordings or other formulations of standards.

Senator Guingona. Section 40 is also along the same line. Since security is based primarily on real properties, then borrowers with known integrity but asset-poor, people with good ideas such as potential businessmen with plans for good computer program development will have a difficult time starting or expanding.

In India, for example, many of the big businesses in the beginning started off without real estate collaterals. Yet today, these are generating 20 percent of their exports based on business knowledge rather than traditional collateral.

Senator Roco. That is precisely allowed by Section 40. Section 40 says that the Monetary Board is authorized to issue such regulations as it may deem necessary with respect to unsecured loans or other credit accommodations.

Again, if we want to make this clearer, we will certainly look at the wordings. But that was precisely the intention, together with Section 39 where we mandate that it look at the peculiar needs of microfinancing. There is also a mandate for it to look at precisely expanding the use of unsecured loans without necessarily increasing risks.

Senator Guingona. So, does this not refer to commercial paper?

Senator Roco. No, Mr. President. In fact, it was hoped to give flexibility to the Monetary Board precisely to accommodate the instances.

Senator Guingona. Is it not meant for the unsecured big business commercial paper and all that?

Senator Roco. It may cover commercial paper, I guess, if that is unsecured. But it certainly also covers unsecured loans based on idea, unsecured loans based on demonstrated entrepreneurial skill, unsecured loans based on a new process or an intellectual property registered with the patent office.

Senator Guingona. Section 42.

Senator Roco. Yes, Mr. President.

Senator Guingona. I suppose there are already adequate regulations.

Senator Roco. I am not sure of what is being suggested, Mr. President.

Senator Guingona. What we are trying to look for here is financing for venture capital because the stock market requires three years profitable track record before a business can be listed. If the regulations of the Monetary Board are already overregulated, as I understand from some businessmen, then the expansion of businesses may be unduly curtailed.

Senator Roco. We are open to considering specific wordings "if these handicaps that." But in principle, we share the goal of flexibility. As I understand it, that is one of the characterizations of liberalization that people keep pushing for.

Senator Guingona. I thank the gentleman for that answer, Mr. President. Section 45.

Senator Roco. Page 21, Mr. President. This is an echo from the Foreign Banks Liberalization Law, and it reflects basically biases I have developed in terms of how we can encourage the banks to extend loans to education, cooperatives, hospitals, medical services, socialized or low-cost housing and local government units. In fact, those are I think the exceptions or areas also enumerated under the Foreign Banks Liberalization Law. Unfortunately, I am not familiar nor have I heard of any implementing guidelines or rules and regulations to give them such an incentive. But Section 45 strengthens that direction.

Senator Guingona. When a businessman, for example, applies for a loan with a bank for a van needed in business, the bank usually charges the client the interest in advance and asks him to issue postdated checks in installments in payment of the same.

Senator Roco. Yes, Mr. President.

Senator Guingona. If he does well in his business, he cannot preterminate the loan without having to pay for the entire amount as agreed upon.

Senator Roco. Yes, Mr. President.

Senator Guingona. Would this not be discouraging the businessman?

Senator Roco. Mr. President, there are many ways. As a borrower, he bargains with his bank, and more banks are available that compete with each other in services. What I do suggest to people who come to me complaining about this bank or that bank is, "Leave that bank and go to somebody else." That is supposed to be the point of the free market.

My concern is, if we start defining all these instances, it will be very difficult and it will almost be the Senate trying to anticipate all these problems. To me, Mr. President, these seem to be problems in the daily operations of banks and we should leave the banker and the borrower to their devices so that if we bargain, we go to this bank and we get better terms; we ask that maybe no postdated checks or maybe we can preterminate. We agree on the fee for pretermination. But for the law to hamstring negotiations may have more disadvantages than salutary effects.

Again, we will welcome a general statement about directions to guide or to serve as a standard for the Bangko Sentral. But we would hesitate to make rules that will constitute practically the rules and regulations that the Monetary Board should be doing, otherwise we should not pay them anymore. We should lower their salary.

Senator Guingona. That is a very realistic statement. But in Section 45, it says precisely, "Development Assistance Incentives." This is a motherhood statement, especially that I notice there is socialized or low-cost housing. How will the socialized or low-cost housing incentives be realized under this section?

Senator Roco. That is for the Bangko Sentral to define. But if the gentleman has a suggestion on a specific rule, then we can consider it. Let me just state that there are certain rediscounting privileges or branching eligibility and loan documents which must be complied with because of special requirements such as in the Agri-Agra law. In the Agri-Agra law, I think 25 percent is supposed to be allocated for certain kinds of loans.

Senator Guingona. Yes, for agricultural loans.

Senator Roco. Yes, agri or agrarian. But in lieu thereof, if a bank comes up and it is preferable to me that the banks invent the mechanism, this was something that the commercial banks and the unibanks were talking about. Each one comes up with a package. I know for a fact of at least two banks that are coming up with packages on low-cost housing. If they get it approved under some incentives by the Monetary Board, then, well and good.

But we should not invent it for the banks. The banks are supposed to make money on this. Let them earn their keep, Mr. President. The Monetary Board should just make sure that the environment to keep them creative and to keep them motivated to give low-cost housing loans is there.

Senator Guingona. I am glad that there are two banks, at least, that are doing so. I will not ask for the details anymore.

But I heard the distinguished sponsor say that the Agri-Agra law allocates 25 percent.

Senator Roco. Yet, that is what I remember.

Senator Guingona. Does the Central Bank supervise this, that they really are giving 25 percent?

Senator Roco. I do not know if it complies. Presumably, the Central Bank is monitoring compliance. That is part of its duties.

Senator Guingona. But treasury bills are being bought or placed, and that is compliance already. Because I do not see the 25 percent; I do not know how much that is. Could we get the figure from the Central Bank?

Senator Roco. I am told it is monitoring. But I am not sure

about the alternative. I mean, I do not know that we can compel these banks to lend when nobody is borrowing.

Senator Guingona. That is supposed to be a law mandating 25 percent, set aside 25 percent of the loanable funds.

Senator Roco. Loanable, but somebody must borrow.

Senator Guingona. But instead of setting it aside, it is allocated to placements of the T-bills and other securities.

Senator Roco. When there is no one borrowing the funds, what does the distinguished gentleman expect them to do?

Senator Guingona. I think that is something that should be looked into because there is no dispute that as far as agriculture is concerned, the demand for funds, the need for funds is there. But I understand from the Majority Leader that not even the Land Bank of the Philippines, I think, complies.

Senator Roco. If the Minority Leader and the Majority Leader have a specific recommendation, I am willing to listen to it. Let us come up with a recommendation.

Senator Guingona. Yes, but before I make the recommendation, may I know from the Bangko Sentral ng Pilipinas officials whether they are closing their eyes to this or they encourage this kind of practice.

Senator Roco. This is not a public hearing. We will investigate them if the Minority Leader will give me the data. I cannot allow it, Mr. President, because it is against the *Rules* and it will open precisely unnecessary... I do not think the *Rules* allow it. In fact, beyond committee, we cannot ask people in the hall. This is not a hearing in a trial stage.

Senator Guingona. No, we are asking it through the distinguished sponsor.

Senator Roco. Yes, and through the distinguished sponsor, I am saying that they are supposed to be monitoring it. But if the Minority Leader has other data, we will investigate them, prosecute them.

Senator Guingona. Section 46...

Senator Roco. That is on Real Estate Mortgage. Yes, Mr. President.

Senator Guingona. Let me just read through it. I am only concerned here with temporary reverses of small businessmen

or homeowners experiencing temporary financial difficulties. They would be ejected from their homes.

Senator Roco. What will please the Minority Leader? This is an old provision, by the way.

Senator Guingona. Yes, this is an old provision. But in the course of going over the bill—I hope the distinguished sponsor will not mind our going into...

Senator Roco. Of course not.

Senator Guingona. May there be some way of relaxing this so that the buyer should only be allowed to take possession of the property after the period of redemption?

Senator Roco. We will welcome suggestions, Mr. President. Let me just state that when I was Congressman and later on when, fortunately, I was elected to the Senate, it has not been unusual for many people to come for help in dire straits because of the foreclosure. Unerringly, however, they come always on the last week before the year ends.

In other words, there are borrowers who not only allowed it to lapse, but were sued and allowed themselves to lose. And then having had a judgment against them—and this is probably seven, eight or 10 years—the people come to us for help as congressmen or senators with four days to go. As chairman of the Committee on Banks, Financial Institutions and Currencies, believe me, I have met many of these people and my heart bleeds for them. But 10 years of neglect should not be rewarded. And the banks, in some instances, will even tell us when we call them, "*O, nakakaawa naman ito, wala nang matitirahan. Mayanim na anak, iyong isa ay one-year old at iyong isa ay may sipon. At may bahapa.*"

Many banks—and we can document this—will even give in upon the instance not only of myself, but upon the instance of many of our colleagues. *Pinagbibigyan nila.* But they will say, "*O sige, six months hindi namin gagalawin.*" *Aba one week to go, at the end of the six months' period, nandiyan na naman.* So it becomes a judgment call of the individual banker. It is very difficult—unless the Minority Leader can suggest formulations—to suggest a cure for that. But we will be willing to look at whatever standards may be suggested. Whatever the standard, we will certainly toss it around, if suggested.

Senator Guingona. We will try to look for a...

Senator Roco. Yes, by all means, Mr. President.

Senator Drilon. Mr. President.

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

Senator Drilon. Just on that point. With the permission of the two gentlemen.

Maybe, the sponsor can consider, at the appropriate time, a provision which would allow this one-year redemption period by whatever liberal provisions and which may be incorporated in cases of properties used for residence. But for properties for commercial or industrial purposes, we may wish to review even the one-year redemption period because such inability to generate economic activity out of the foreclosed property for a period of one year can tie up a lot of assets. Maybe, the committee can consider making distinctions between foreclosure of properties used for residence and properties used for business.

Thank you, Mr. President.

Senator Roco. Thank you, Mr. President. The committee will be open to all these suggestions. May we just call attention that under the Civil Code, if we register the house as a family home, then there are some benefits. So that may cover. So family home when registered...

Unfortunately, Mr. President—not in relation to this—before, when we were looking at that, very few of us, and I am sure even among our colleagues... Gilmore—I do not know if Senator Guingona has been there since time immemorial. But I am sure he has not registered it as a family home. I certainly have not. As long as it conforms. I do not have the formulation now, but we are not hostile to the idea.

Senator Guingona. I thank the gentleman for that.

Senator Roco. Thank you, Mr. President.

Senator Guingona. Mr. President, in Section 47, is it not the practice of banks to restructure a loan by giving a new loan?

Senator Roco. It involves business judgment, Mr. President.

Senator Guingona. Which one would be less expensive to the poor borrower? The trouble is that, while the banks, as a rule, waive penalties and charges and even interests to big customers, these banks are usually strict to small borrowers. I do not know how we can hamper this.

Senator Roco. I guess, Mr. President, that is what the thrift banks, the rural banks, the cooperative banks and the savings and loans associations are supposed to cover. That is the niche. That

is why even under Section 2, we classify and we do not touch any of these laws that precisely are meant to serve the small borrowers. But we have to allow the banks to run their banks and it is difficult, I guess, even for the Monetary Board to run them.

The unibanks and the big banks, let them take care of themselves. If they get into trouble, the Monetary Board can straighten them up. The commercial banks, it is the same. But there are 800 rural banks; there are more than 100 thrift banks; there are more than 100 savings and loan association banks. I have the specific data. Again, this is now for them to capture.

Mr. President, there are savings and loan associations with assets worth more than P5 billion and we just have to commend them. I think it is a great idea. It makes us want to be in the military.

Senator Guingona. I thank the sponsor for that answer, Mr. President.

In the section on Independent Auditor. Should not the independent auditor audit for two or three years? Because if one is appointed only to audit for one year, it is less likely for him to trace the hidden anomalies.

Senator Roco. We are in Section 56, Mr. President.

Senator Guingona. Yes, Mr. President.

Senator Roco. Section 56. Yes, please.

Senator Guingona. Should he not be allowed to audit at least for two or three years, or should we leave this to the practice of banks again?

Senator Roco. I do not know whether the distinguished gentleman would like to put that here in the law. Maybe we just leave it to the Monetary Board. I think, every year, all banks are covered by full audit.

Senator Guingona. But it is not the same independent auditor, Mr. President. I want a continuity.

Senator Roco. The distinguished gentleman wants that an independent auditor should conduct a three-year audit.

Senator Guingona. A continuity, at least, for two or three years.

Senator Roco. Mr. President, when I was practicing law, that could have turned disadvantageous to the client. If a client does not like an independent auditor because he is precisely *mayabang* or inefficient, he just fires him. That is correct. These

are banks. These banks are handling fiduciary funds. We can just imagine if *nakaaway ang* independent auditor, these banks just fire him because that is the simplest thing in the world to do. But if we compel these banks to hire independent auditors for three years...

Senator Guingona. He is not really independent if he is...

Senator Roco. In all these years that this has been going on, the independence of the auditors is covered by their own standards of accounting and auditing. I think it is the only profession right now with international standards that are accepted, monitored and policed by the PICPA and similar agencies. We can complain against these auditors almost anywhere in the world. They are powerful. On the other hand, based on performance as far as I can see, most auditors and CPAs are fairly straightforward.

Senator Guingona. I thank the gentleman for that. My only point there was to allow checks and balances by having a continuity for two or three years.

Mr. President, I looked around me and since this is a very vital bill, may I just reserve my interpellation.

Senator Roco. The gentleman is on to me, Mr. President. He is pulling my tricks against me.

Mr. President, before that, on page 27, line 22, it does say that the terms of engagement shall be as described by the Monetary Board which may either be on a continuing basis where the auditor shall act as a resident examiner or on the basis of special

engagements. So that may be covered. But again, the committee will look at it. But we are happy to close the period of interpellations even without a quorum. *[Laughter]*

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

SUSPENSION OF CONSIDERATION OF S. NO. 1519

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

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

Senator Roco. Thank you, Mr. President.

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

ADJOURNMENT OF SESSION

Senator Drilon. Mr. President, much to my regret, I have to move to adjourn the session.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the session is adjourned until tomorrow, Wednesday, September 15, 1999 at three o'clock in the afternoon.

It was 5:11 p.m.