

RECORD OF THE SENATE

MONDAY, SEPTEMBER 24, 2001

OPENING OF THE SESSION

At 3:40 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The 23rd session of the First Regular Session of the Twelfth Congress is hereby called to order.

Let us all rise for the prayer to be led by Sen. Ralph G. Recto, after which the Senate Choir will lead us in the singing of the Philippine National Anthem and thereafter, the song "The Majesty and Glory of Your Name."

Everybody rose for the prayer.

PRAYER

Senator Recto.

Let us pause for a moment and pray for world peace.

Grant us, O Lord,
A discerning mind and open heart,
That in this time of mass complacency and indifference,
We may learn to respond and stand up against threats
to our national security and democracy.

Under Your watchful eyes,
Help us rise above politics,
And give us the strength to bring our economy back to
its feet.

Teach us,
That we may give hope to the downtrodden,
Shelter for the homeless,
Food for the hungry,
Work for the unemployed.

Inspire us,
That amidst poverty and desperation,
We may learn to unite and work together in transcending
the income and cultural divides;
That amidst factionalism and politics of obstructionism,
We will all learn to forgive one another and be one as a
nation of principled men and women with a singular
vision for peace and prosperity.

Help us be an instrument of Your peace.
That in the face of a borderless war against terrorism,
We may learn to join hands with the rest of the world and
fight for peace and reconciliation;

That in this age of mass destruction,
Our country will be spared from danger and devastation.

Finally, we pray for the victims of the World Trade Center
and Pentagon tragedies, their families and friends,
whose grief and sorrow are also ours to bear.

Help us, Lord, that in all our undertakings for our fellowmen
and country, we may always be guided by Your
infinite love and compassion.

Amen.

NATIONAL ANTHEM

Everybody remained standing for the singing of the
national anthem.

SUSPENSION OF SESSION

The President. The Chair, with the permission of the Chamber,
would like to suspend the session for one minute so that we can
officially greet an esteemed colleague who is celebrating his
birthday today--Sen. Edgardo J. Angara. And while we are on
suspension, may I request the Senate Choir to sing a birthday
song. [Applause]

It was 3:48 p.m.

RESUMPTION OF SESSION

At 3:50 p.m., the session was resumed.

The President. The session is resumed.

ROLL CALL

The Secretary will please call the roll.

The Secretary, reading:

- Senator Edgardo J. Angara ..... Present
Senator Teresa Aquino-Oreta ..... Present
Senator Joker P. Arroyo ..... Present
Senator Robert Z. Barbers ..... Present
Senator Rodolfo G. Biazon ..... Present
Senator Renato L. Compañero Cayetano ... Present
Senator Noli "Kabayan" De Castro ..... Present
Senator Luisa "Loi" P. Ejercito Estrada ..... Present
Senator Juan M. Flavier ..... Present
Senator Gregorio B. Honasan ..... Present
Senator Robert S. "JAWO" Jaworski ..... Present

**Senator Legarda Leviste.** I am sorry, Mr. President. Yes, "June 31" to be amended as June 30, 1997.

**The President.** All right. May the sponsor accept an amendment which will make all the senators coauthors of the proposed measure?

**MOTION OF SENATOR LEGARDA LEVISTE  
(All Senators as Coauthors of P. S. Res. No. 146)**

**Senator Legarda Leviste.** Yes, Mr. President. I move that all senators be made coauthors of this resolution.

**The President.** Is there any objection? *[Silence]* There being none, the *Record* will reflect that all the senators are coauthors of the proposed Senate resolution.

**ADOPTION OF P. S. RES. NO. 146**

**Senator Legarda Leviste.** I move that we adopt Proposed Senate Resolution No. 146.

**The President.** There is a motion for the adoption of Proposed Senate Resolution No. 146. Is there any objection? *[Silence]* There being no objection, the motion is approved.

**SPECIAL ORDERS**

**Senator Legarda Leviste.** Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders, Committee Report No. 1 on Senate Bill No. 1745, entitled

**AN ACT DEFINING THE CRIME OF MONEY  
LAUNDERING, PROVIDING PENALTIES  
THEREFOR AND FOR OTHER PURPOSES.**

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

**BILL ON SECOND READING  
S.No. 1745—Anti-Money Laundering Act**

**Senator Legarda Leviste.** Mr. President, I move that we consider Senate Bill No. 1745 under Committee Report No. 1.

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

**Senator Legarda Leviste.** I therefore move, Mr. President, that Sen. Ramon B. Magsaysay Jr. be recognized for the sponsorship of Senate Bill No. 1745 as reported out under Committee Report No. 1.

**The President.** Sen. Ramon B. Magsaysay Jr. is recognized for the sponsorship speech of Senate Bill No. 1745.

**MOTION OF SENATOR MAGSAYSAY  
(Use of Audiovisual Aids Be Allowed for the  
Sponsorship Speech)**

**Senator Magsaysay.** Thank you, Mr. President.

May I also request that we use the slide, arrow point, so that some of our senators may be able to visualize more clearly what we are trying to set forth this afternoon.

**The President.** There is a motion to allow the audiovisual aids to be installed in the premises of the hall to enable the members of the Senate to follow the sponsorship speech more clearly.

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

**SPONSORSHIP SPEECH OF SENATOR MAGSAYSAY**

**Senator Magsaysay.** Thank you, Mr. President.

Mr. President, my fellow senators: As chairman of the Committee on Banks, Financial Institutions and Currencies, I rise today to sponsor the consolidated legislation on anti-money laundering, Senate Bill No. 1745. Originally, there were 11 various bills on the prevention of money-laundering transactions and similar concerns filed in the Senate. Since August 22, 2001, when the membership of the committee was completed, two public hearings, four exploratory meetings, at least one joint meeting with the Senate and the House panels, and a technical working group were called to synthesize the working draft of the legislation.

Mr. President, the enactment of the anti-money laundering bill is of primordial importance. Getting a reliable estimate of the amount of money laundered worldwide, while difficult, is perhaps the most significant indicator why we should pass this bill. Based on the available documents, the amount of money laundered worldwide would range from US\$300 billion to US\$500 billion annually or about two percent of the global gross domestic product or GDP. In 1998, the International Monetary Fund (IMF) placed the scale of money-laundering transactions worldwide to range between two percent and five percent of the world GDP. In 1999, the IMF estimated the global money-laundering activities to be worth at least US\$600 billion.

Thus far, there are no readily available statistics quantifying money-laundering transactions in the Philippines. The same is mirrored by the difficulties encountered by authorities in measuring

the scale of money-laundering activities. Hence, instead of getting money-laundering statistics, data have been collated on the extent of three of the most pervasive sources of laundering transactions. These are illegal trade of narcotics, kidnapping, and graft and corruption.

Illegal drug trade in the country has a captive market of about 1.8 million Filipinos or 2.2 percent of the Philippine population, which translates to a more than P265 billion a year. The said amount is already equivalent to eight percent of the country's economic output and, roughly, a third of our annual government appropriation.

Kidnapping, on the other hand, has become a profitable business in the country that we have been dubbed "Asia's Kidnapping Capital." With the increasing number of kidnapping incidents in the country, the Philippines has been included among the top 10 most dangerous nations for kidnapping along with Colombia, Mexico, Venezuela, Guatemala, Cambodia, Yemen, Nigeria, Angola and Russia.

This year alone, the Philippine National Police (PNP) recorded that a number of kidnapping nationwide rose by almost 100 percent as compared to the same period last year. The PNP recorded a total of 41 cases of kidnapping during the first half of 2001, almost double the 22 cases reported in the same period of 2000. These official figures do not include the many unreported cases of abductions where the victims' families would rather settle and pay for ransom and be silent than seek police assistance.

The Philippines is cited as one of the countries where graft and corruption is perceived to be very prevalent. The said fact is bolstered by the data provided by the Ombudsman that from 1988 to 1999, P1.4 trillion has been lost to corruption. On a daily basis, at least P100 million is lost to corruption.

Money laundering in the Philippines would seem to be a serious problem amounting to billions of pesos a year. The ease with which money from illegal activities can be converted into legitimate funds is a serious problem in this country. If left unchecked, criminals could soon push aside legitimate businessmen and dominate large segments of Philippine economy.

Mr. President, we cannot allow this to happen. We cannot simply do nothing while we see:

(1) An increase in crime. For money laundering has serious security, political and social consequences, and it allows criminals to preserve and enjoy the fruits of their crimes, thus providing them with both the incentive and the means to perpetrate their illicit

activities and at the same time expand and consolidate their forces. Organized crime can corrupt financial institutions, control sizable sectors of the economy through investments, even bribe and infiltrate governments.

(2) Money laundering can sabotage our economic system. It destabilizes our entire financial direction. It can make a country's financial system suffer from loss of integrity and investor confidence. It can have negative effects on currency exchange or money balances and interest rates, thus undermining national economies and economic growth.

(3) Money laundering destroys the integrity of governments and corrupts its people. With the increasing awareness of the ill effects of money laundering and the growing interdependence among global economies, countries that are known as havens of money launderers could be placed in a bad light, thereby adversely affecting their financial transactions and relations with regional and global economies. In the long run, money laundering will defile the values of our youth since they can emulate the path to easy money. The said scenarios are compelling on their own for us to pass an anti-money laundering legislation.

The Philippine banking and financial system has long been considered a pillar of professionalism comparable in efficiency and integrity with the banking systems of many of our first world neighbors. However, the integrity and reputation it has earned over the years is being questioned because of the possible influx of criminal money into its system. The reason for this is the lack of effective legislation to counter money laundering.

Despite our international commitments to counter money laundering, we have failed so far to institute lasting and effective anti-money laundering measures. Because of our failure to honor these commitments, and because of the need to curtail transnational money laundering, our banking and financial system risks countermeasures from the international community, including the following:

*First*, unnecessary inspection of all our foreign exchange trades;

*Second*, stricter surveillance, processing and verification of our international transactions;

*Third*, adverse advisories warning international banks to look at our banking institutions with suspicion;

*And lastly*, foreign banks requiring Philippine banks to waive bank secrecy before they deal with us.

In short, we risk being an outcast in the international financial community. Our move is forever suspect.

The Bangko Sentral ng Pilipinas has instituted measures to curb money laundering at its level. It is a step in the right direction, but it is not enough, Mr. President. If we want to truly stop money laundering and prevent the Philippines from becoming another violent, lawless narco-state, we need to act now.

Specifically, we need a law that deals directly with the issue of money laundering. One that not only makes it a crime to enter into a money laundering transaction but also one that will institute the systems and procedures to enable our law enforcement agencies to identify money launderers and track them down.

We believe that we have crafted such a law. The present anti-money laundering legislation provides the key elements to fight money laundering in our country. These elements are:

First, the criminalization of money laundering, such that a criminal will face imprisonment not only for the principal crime he committed, but for any attempt to enjoy the profits of such crime;

Second, the institution of a system of suspicious transactions reporting by business and financial institutions that are used by criminals to launder or hide their money;

Third, the relaxing of bank secrecy laws in order to track, and ultimately recover dirty money;

Fourth, the creation of an anti-money laundering council or task force, in the case of the House version, an office tasked to do financial intelligence activity and will also serve to maintain a data base of possible money laundering transactions, and that will have the expertise to analyze such data for use in arresting and prosecuting money launderers;

And, fifth, the institution of procedures for effective international cooperation, which will curtail and discourage transnational money laundering.

On the issue of bank secrecy, Mr. President, the present bill is revolutionary because it allows inquiry into bank accounts of suspected money launderers without having to obtain a court order. At first glance, this may seem brazen and undemocratic, but there is wisdom behind this feature. The removal of the courts from the picture will actually serve to protect private individuals, by ensuring that there will be as few people as possible who will be privy to their financial affairs. To require a court action on the matter would be to

authorize the publication of information that would otherwise have been kept confidential at an administrative level.

This is but one example of how the present bill seeks to address the concerns of our people, while at the same time complying with international standards for fighting money laundering.

Mr. President, distinguished colleagues, we believe that with this, and the other elements featured in the bill, the law, once passed, will provide a convincing solution to the burgeoning problem of crime in our country. Likewise, the Philippines joins the community of nations embracing the regime against money-laundering activities including the countries identified as the G-7 nations led by the United States; our Asian neighbors, China, Japan, Korea, Taiwan, Hong Kong, Singapore, Thailand, Malaysia, Sri Lanka and Pakistan; the island countries of the Pacific, including Papua New Guinea, Palau, Wallis and Futuna, St. Vincent and even Nauru; the countries of Australia, New Zealand and others.

As legislators, we have the special power to change the way our people live. I enjoin my colleagues to take advantage of this opportunity.

Thank you, Mr. President.

**The President.** Thank you, Senator Magsaysay. The Majority Leader is recognized.

**Senator Legarda Leviste.** Mr. President, for the cosponsorship speech, I move that we recognize Sen. Francis N. Pangilinan, the chairman of the Committee on Justice and Human Rights.

**The President.** The chairman of the Committee on Justice and Human Rights, Sen. Francis N. Pangilinan, is recognized for the cosponsorship speech.

#### SPONSORSHIP SPEECH OF SENATOR PANGILINAN

**Senator Pangilinan.** Thank you, Mr. President.

Mr. President, honorable members of this august Body:

As chairman of the Committee on Justice and Human Rights, I stand to cosponsor the Anti-Money Laundering Bill as contained in Senate Committee Report No. 1.

From Moscow to Buenos Aires, money laundering scandals sap economies and destabilize governments. With

events of recent days, we can add New York and Washington D.C. to the list.

Even as we speak, authorities in the United States as well as in Europe are trying to trace the money trail that is believed to have funded what has now become known as the worst terrorist attack in world history. What was thus already a burning issue in international financial fora has now become a matter of even deeper concern — one which we can very well say affects world peace and the future of civilized society.

The issue is money laundering.

While banks remain the major avenues for money laundering, modern-day money launderers make use of the entire financial system through the use of new avenues, such as remittance centers, insurance companies, stock exchanges and brokerage houses, currency exchange houses, gold dealers, casinos, car dealers, real estate firms and trading houses. Launderers have also adopted new methods and techniques, such as international electronic fund transfer arrangements and new payment technologies. Examples of these are electronic money, loan-back arrangements, establishment of front or shell companies and trusts, the use of tax havens to hide beneficial ownership and the purchase of an existing legitimate business with dirty money to give illicit cash a semblance of legitimacy.

Allow me to cite some concrete examples of money laundering.

Money laundering takes place when a drug dealer sells drugs in the streets, deposits his drug money in a bank, and thereafter uses the money to purchase real assets. Money laundering takes place when the member of a criminal syndicate can make large cash deposits of his illicit money and then use these deposits as collateral to borrow money from the same bank to start a new venture.

What we want to accomplish is to make it difficult for these criminal elements to consummate what are, at present, very simple and very seemingly innocent transactions. At the same time, we want to be able to track down the trail of any illicit funds, connect these funds to their true source, and recover these funds. By doing so, we prevent the criminal from enjoying the fruits of his crime and possibly using such funds to expand his criminal operations. A law that criminalizes money laundering is therefore a law that combats crime by making it difficult for the criminal to enjoy the fruits of an illegal act. It also prevents the criminal from pursuing other criminal acts with the use of these resources.

How do we propose to do this? The answer is in passing an anti-money laundering bill.

This bill presents a concrete strategy against organized criminal activity by focusing on the financial aspect of that criminal activity. The first aspect of the strategy is the declaration that money laundering is a crime for which perpetrators will be held accountable. The second aspect is the enactment of changes in our bank secrecy laws in such a manner as to allow investigation into the affairs of possible money launderers without—and we reiterate—without compromising the interests of innocent and legitimate businessmen. The third aspect is the institution of a system of reporting suspicious activities and transactions in order to deter and detect money laundering. The fourth aspect is the creation of a centralized data-gathering unit with the expertise to analyze financial information. And, finally, the fifth aspect is the acknowledgment that money laundering is a transnational crime and the institution of a system of international cooperation to fight cross-border money laundering.

There are those who feel that the approval of this bill is simply another example of a foreign body interfering with our sovereign authority. Much has been said about the tyranny of the so-called FATF or Financial Action Task Force, with its threat of countermeasures and blacklisting. But the reality of it all is that it is we, the Filipino people, our government, that have voluntarily agreed to fight money laundering together with other countries. It is we who have agreed in principle to cooperate with the community of nations by instituting measures domestically to curb money laundering, thereby preventing the use of our country as a haven for criminal money. We are not acting because of pressure from the FATF. We are acting because we want to fight crime with the end in view of creating an atmosphere that is conducive to economic growth and development.

It cannot be emphasized enough that the enactment of anti-money laundering legislation is an international commitment of the Philippines both under the 1988 Vienna Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which our own Senate ratified in June of 1996 and the 1998 Political Declaration and Action Plan Against Money Laundering adopted by the United Nations General Assembly.

These conventions primarily addressed the laundering of money linked to drug trafficking. The introduction to the 1998 political declaration stated that "Drugs are a grave threat to the health and well-being of all mankind, the independence of States, democracy, the stability of nations, the structure of all societies, and the dignity and hope of millions of people and their families." The commitments contained in this declaration were, however, subsequently expanded to include money derived not only from illicit drug trafficking, but also from "other serious crimes."

These commitments include "the establishment of a legislative framework to criminalize the laundering of money derived from

serious crimes" and the "identification, freezing, seizure and confiscation of the proceeds of crime." With respect to the 1998 Vienna Convention, it was declared that bank secrecy laws must not serve as a barrier to asset forfeiture investigations.

To reiterate, the enactment of anti-money laundering legislation should not, therefore, be seen as a mere compliance with an unreasonable imposition by the richer, more powerful nations that comprise the FATF. Instead, it should be treated as a reaffirmation of our voluntary commitment as a nation to fight serious crime and the money-laundering activities that allow it to flourish.

It is believed that in order to solve a crime, one must "follow the money." It is this proposal that we now seek to follow in fighting the crime of money laundering. By following the money, the full scope of a crime can be discovered and a criminal organization can be destroyed. Money laundering is the companion of brutality, deceit and corruption. We must not allow criminal enterprises to wash the blood off profits from the sale of drugs, from terror or organized crime. If we want to truly stop money laundering and prevent the Philippines from becoming another violent, lawless narco-state, we need to take more resolute action. We need to have a national commitment to a coordinated, effective fight against money laundering.

We must ensure that criminals and their laundered money can find no safe haven anywhere and act now to destroy criminal organizations by taking the profit out of crime.

Last August 6 to 8, 2001, I, together with Sen. Juan M. Flavier and the Minority Leader, Sen. Aquilino Q. Pimentel Jr., had the opportunity to sit down for three days in Washington DC to attend an anti-terrorism seminar that focused on financial investigations and money laundering. There, we witnessed how important it is for the United States, as well as other countries, to battle terrorism, to battle money laundering. A timely undertaking and proof that the issue has indeed taken an international dimension. In addition, the recent horrendous and condemnable attack on the World Trade Center and Washington D.C. has further emphasized the need to look at the terrorist menace, whether local or foreign, straight in the eye by enacting measures that would deprive them of the resources to pursue their pernicious objectives. Passing an anti-money laundering law is one such act that the Senate can do as meaningful contribution to what is now a worldwide concern. Rather than cower in fear and self-doubt, we shall send a strong message to the international community that we too are in the forefront of the battle against terrorism and other criminal activities.

In closing, much has been said in our papers about the pros and cons surrounding the efforts to enact an anti-money laundering law. Let it be said that our Senate Committees on Banks, Financial Institutions and Currencies, as well as Justice and Human Rights,

do not have a monopoly of ideas that will make good and effective legislation in this area and that we are open to amendments of the bill as proposed in order to achieve the bottom line question of pressing an urgent need for effective efforts in addressing crime in the country.

With these thoughts in mind, let us work as one body for the expeditious passage of this bill on money laundering.

Thank you very much, Mr. President.

**The President.** The Majority Leader is recognized.

**Senator Legarda Leviste.** Mr. President, we thank the two distinguished sponsors for their very comprehensive speeches on the Anti-Money Laundering Act. And for the interpellation, I move that we recognize the senator from Aurora, the birthday celebrant today, Sen. Edgardo J. Angara.

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

**Senator Legarda Leviste.** I also move that we recognize the sponsor of the measure, Sen. Ramon B. Magsaysay Jr.

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

**Senator Angara.** Thank you, Mr. President.

Would the distinguished chairman of the Banks, Financial Institutions and Currencies Committee care to answer some questions for clarification, Mr. President?

**Senator Magsaysay.** Gladly, Mr. President.

**Senator Angara.** First of all, Mr. President, I congratulate the distinguished sponsor as well as the chairman of our Justice and Human Rights Committee for their eloquent and vigorous presentation and sponsorship of this measure.

Mr. President, the distinguished sponsor stated that passing this bill is of primordial importance. What does that mean, Mr. President? Does it mean that this bill takes precedence at this time over all legislative proposals?

**Senator Magsaysay.** In a way, that is what I meant, Mr. President. This measure seeks to focus on the importance of what we are facing in our society and the global situation today—that the large profits that come from crime and illegal activities entering into the banking system seek to overcome and overturn any other legitimate means and that will eventually lead to the collapse of our values, social orders, and other traditional virtues that we as Filipinos have been nurturing all these centuries.

**Senator Angara.** Well, I do not know about the centuries, Mr. President. But anyway, is the distinguished sponsor telling us that this bill, if not passed, will spell a life-and-death situation for the Philippine economy? Is that the import of his statement?

**Senator Magsaysay.** Not necessarily, Mr. President. We are just using the term "primordial" to show that our standing as a respected member of the world community, particularly the financial community, makes it necessary for us to look at this particular measure which, incidentally, has just been certified this afternoon at three o'clock, as one touchstone to show that we are doing our bit to partly solve the problem of what is happening around us.

**Senator Angara.** What is happening around us, Mr. President, as what has been dramatically demonstrated in the recent terrorist attacks on the World Trade Center and the Pentagon is that the greater and graver terror that confronts us is the devastation that the terrorists can inflict on the most powerful nation, and yet that powerful nation seems to be unable to immediately take action against the terrorists. Is that not, to quote the gentleman's phrase, of more primordial importance that at this time the Philippines should start planning, anticipating, and installing such measures that will cushion the impact of the surely forthcoming global recession? Is that not a more primordial action that we ought to take rather than rushing a measure like this that I am sure we can pass during the remaining days of our session, and yet, we are giving primordial importance to this measure rather than measures that will protect our people from the devastating consequences of the recent events of last week, Mr. President?

**Senator Magsaysay.** I agree with the gentleman, Mr. President. The gentleman from Aurora and Quezon has placed it very emphatically and our giving priority to this measure does not mean that we are not giving some equal importance to other even equally pressing issues like global terrorism or even the economy. These are all, in a way, interrelated. The tragedy that occurred last September 11, 2001 might not have happened if the money was not there to finance years of training, to finance all the planning and careful strategy to attain a certain dastardly and inhuman act of killing over 6,000 or almost 7,000 innocents on that day of infamy—September 11, 2001.

**Senator Angara.** Yes, Mr. President. But it is still farfetched to say that there is a connection between the bombing and laundered money.

Nonetheless, Mr. President, is it not of more immediate and pressing concern to us how we can cope with the global recession that is now over our head; how we are going to prevent companies from closing down; how we are going to cushion the impact of a negative export record; how we are going to cushion the impact

of our people returning to the Philippines as a result of the forthcoming war? That war will surely come.

Why is it that this administration is not even telling our people how to cope with this oncoming disaster that we are going to face, instead of certifying an anti-money laundering act which consequences are not even probably directly felt and immediately felt by our people, and yet the economic consequences of this forthcoming war, as a result of the bombing, will be immediate, swift and direct, Mr. President?

**Senator Magsaysay.** I can understand the deep concern of the gentleman, Mr. President. But these issues on preparing for a possible global war against global terrorists was already addressed by the President in her State of the Nation Address last July. She made mention of fighting poverty. This is part of the facets that we have to address even while we are passing new laws and new measures that will also address important concerns as a member of the global community.

**Senator Angara.** Yes, Mr. President.

**Senator Magsaysay.** One does not deprive the other activities of attention, because these are all somehow interrelated. Eventually, we will converge on certain standards that will improve our attraction as a place to invest and have the level of trustworthiness and integrity that a good banking system and a good economy can offer.

**Senator Angara.** Mr. President, I have to stretch my imagination, and one has to stretch his imagination to see the connection between the passage of this bill and the strengthening of our banking system.

On the contrary, that brings me to the next point I want to raise. While, we, to a man in the Opposition to a woman in the Minority, agree that there must be an anti-money laundering act, we would caution the Majority that such a law ought not to compromise the banks' secrecy because bank secrecy is at the center of the confidence of a depositor in his bank. Bank secrecy is like a contract. It is a right that the bank customer can demand and it is an obligation on the part of the bank to honor.

So, Mr. President, when the distinguished gentleman said that this measure will be revolutionary in that sense because it will now allow the opening or the looking into of bank accounts without court order, I was quite amazed at such a statement because I thought that is not revolutionary at all. I think it is frightening. We are going to frighten our bank customers especially the Chinese-Filipino among us, who are quite sensitive to this secrecy—which we all are, to the confidentiality of their bank transactions and their bank accounts.

So, again, I go back to what we call primordial importance. Primordial indicates priority in terms of content as well as time. And I am saying that trying to rush or being seen as rushing the passage of an anti-money laundering act seems odd at this time when the primary, fundamental and single concentration, singular concentration ought to be on measures that will cushion the impact of the global recession that will surely come as a result of the war that we are going to see in a day or two, Mr. President. And yet, we have not seen any such proposal or measure that we ought to debate right now rather than debating a... Sure, I grant that this is a worthy legislation. But this is a legislation that will hardly touch the lives of Filipinos, that will hardly help improve the lives of the Filipinos, that will hardly save the jobs that will be lost as a result of this terrorism.

**Senator Magsaysay.** Mr. President, the gentleman from Aurora and Quezon made mention that this measure will hardly touch the lives of the ordinary Filipino, and that is a fact. Because the basis of our putting some kind of conditions before a questionable or a suspicious account may be opened.

Basing on the statistics of the Philippine Deposit and Insurance Corporation, there are about, more or less, 20 million accounts in the country. This is coming from the commercial banking system and the thrift banks. And 200,000 and below of average account is 93 percent lower than 200,000, and those that are over 200,000 is not even seven percent.

When we look at the threshold of one million where there is some suspicion, that account might have to be opened for more information. We are not even looking at two percent of the total number of account holders. Meaning, 98 percent of all the individuals and corporations that have accounts are not even touched. In fact, it is the same old way and that is what the statistics show, Mr. President.

**Senator Angara.** Well, if we are only talking of two percent of bank depositors, why are we rushing this bill?

**Senator Magsaysay.** Because of the nature of dirty money coming from crime that is enumerated in our measure, going into the banking system and making the banking industry of the country suspect.

We had public hearings wherein even the Bankers' Association of the Philippines headed by Mr. Placido Mapa Jr. came forward and made a strong statement that they are as much concerned as the BSP and the whole government bureaucracy, that if we do not have this anti-money laundering legislation, they are going to be affected badly by the FATF which is going to give them so many requirements before they can transact business. So they are

one with us in trying to prioritize this particular measure, Mr. President.

**Senator Angara.** Yes, Mr. President. As I said, we do not object to having an anti-money laundering bill passed. What we will have to dispute and debate very seriously are the mechanisms that will ensure that excluding dirty money from entering the banking system is one that will protect and safeguard nonetheless the bank secrecy. Because if we destroy the bank secrecy, then we destroy the very banking system, and that is our principal worry.

Now, just picking out one item from this proposed measure, Mr. President, it will now appear that the proceeds from cockfighting bets—let us say, I won a million pesos or a million-and-a-half pesos, and I deposited it in a bank—are potentially laundered money under this proposal, is it not? Because under this proposal, unlawful activity refers to any act or omission or series or combination thereof, et cetera, involving gambling, betting and other offenses relating to cockfighting, sports contests and other forms of illegal gambling. What is the meaning of this, Mr. President? I thought that in the presentation of the gentleman, we are just talking of three principal unlawful illegal activities—kidnapping, drugs, and graft and corruption. Why are we now suddenly zeroing in on the average Filipino who goes to the cockpit every Sunday and bets on money? Is this the intent of this bill? That is one instance.

**Senator Magsaysay.** That is true, Mr. President. It is possible that the gambling is illegal.

**Senator Angara.** But I thought cockfighting is allowed in this country.

**Senator Magsaysay.** I think they allow cockfighting on certain days.

**Senator Angara.** Yes, on Sundays.

**Senator Magsaysay.** But the rest of the week, it could be illegal.

**Senator Angara.** But, Mr. President, there have been derbies even on weekdays. Does the gentleman mean to tell me that Dr. Flavio cannot now go to a derby and bet a million pesos because he will be charged with laundering money?

**The President.** Would the sponsor accept an amendment at the appropriate time on this point?

**Senator Magsaysay.** I will gladly accept.



**Senator Angara.** I am sure, Mr. President, because this is ridiculous. But what I am just trying to point out is that we must carefully write a money laundering bill that will not weaken the confidence of bank depositors in their banks. We should not make a law that will embrace practically every human activity conceivable under the criminal statute book because that is almost impossible to implement.

So what we are saying is, not only are we questioning the time priority we are devoting to this bill but also the content.

Again, referring to content and again referring to bank secrecy, it is hard enough to keep bank secrecy under the present law where bank secrecy is almost absolute especially in the case of foreign currency deposits, and yet they get disclosed. One's account gets known to other people. That is why some of our countrymen complain that some irresponsible bank officials are the ones providing the kidnapers with information who has got fat accounts in the bank.

Now we are introducing a body composed of three men. As we know in this country, if we tell one guy a secret, that is no longer a secret. If we tell three Filipinos a secret, that is going to be broadcast publicly. This I think is what this three-man council will do to the banking system and it will add to the uncertainty and lack of confidence in our banking system. Does the gentleman not agree, Mr. President?

**Senator Magsaysay.** I can understand the concern of the gentleman, Mr. President, but there are penalties if any or all of these three break the confidentiality. They can be jailed.

**Senator Angara.** Even nonexistent accounts get disclosed.

Anyway, Mr. President, even under existing law, there are already heavy penalties, and yet these have not deterred the unlawful disclosure of accounts. So, this is no guarantee.

**Senator Magsaysay.** We are open to amendments as the gentleman may wish, Mr. President.

**Senator Angara.** Mr. President, my impression is that this FATF, a task force created by the Group of Seven which is composed of three of the seven richest countries in the world, has reviewed our financial rules and regulations. It said that there are three principal deficiencies in our banking system as far as money laundering is concerned. First, we have not criminalized money laundering. Does the gentleman agree with me, Mr. President?

**Senator Magsaysay.** Yes, Mr. President.

**Senator Angara.** Second, there is no way that a bank account suspected of money laundered, the source of which is of

a suspicious activity, can be looked into administratively. We have to go to court to get a court order. They said that that is a big barrier to the discovery of laundered money. Is that also not true?

**Senator Magsaysay.** That is correct, Mr. President.

**Senator Angara.** Third, the way I read the analysis and review of our financial rules, there is no system of surveillance and monitoring of suspicious activity in an account. For instance, if there is heavy deposit and withdrawal in an account which we know that in the past had been a modest account and then suddenly millions of money keep turning over, there is no reporting system that will alert the banking authorities. Is that not true too?

**Senator Magsaysay.** That is correct also, Mr. President.

**Senator Angara.** And therefore, Mr. President, if we just have a bill that will respond to all these three loopholes that they find, does the gentleman not think that we would have already complied with this imposition?

**Senator Magsaysay.** That is exactly what we are trying to do here, Mr. President. There are actually five elements of the requirements by the FATF that we are trying to address which are contained in our measure. But the gentleman may improve on this, knowing his great skill having been Senate President twice over. We will certainly welcome the improvement on the requirements that the FATF has listed. We are open to suggestions.

**Senator Angara.** Yes, Mr. President, I will be addressing the main concerns expressed by this foreign body. I am not going to draw up and craft a bill that will make them happy. I will try to draw up or draft a bill that will suit our unique culture and customs in this country that will make banking in this country a pleasant activity and that will make depositors safe in the thought that their accounts will be protected.

I thought, Mr. President, that the simple version that we have in mind—I have in mind at the very least—should just be simple because it is important that what we pass is going to be implementable, and it is implementable because people will accept it.

Our problem, Mr. President, as politicians, is that we may think that we have drafted a fantastic law. And yet we cannot explain the implementation. We cannot explain the details and the purpose of that law to our people. And then that law is a dead law and we lose credibility in the process, Mr. President.

**Senator Magsaysay.** I agree, Mr. President. We want a simpler law. We want a law that we can explain to our people.

We want to have it as basic and as simple enough so that we can comply and also look at the culture of our people. We will take all these into account. That is why we are here so that we can accept these proposals and sage advice so that we can come up with something that is acceptable to as many sectors of our society as possible without losing sight that there are requirements by the international community that may have to be embedded in this measure.

**Senator Angara.** Can the distinguished senator tell us, Mr. President, why is it called "money laundering?" *Labada ba ito?*

**Senator Magsaysay.** Simply, Mr. President, this is the money that comes from criminal activities. They call it "laundered money" once it is deposited in the banking system or in any other institution for that matter. Even buying a car from a dealer. This is the way dirty money is deposited in the banking system or in other economic activities before it is layered to make it a little more legitimate or semi-legitimate, and then dividing it into so many accounts and then eventually being integrated into the whole economic system by going legit by investing in casinos or in any other economic activities. That is why this is laundered money because it is being processed through by the deposit, the layering and the integrating, and this is simply dirty money.

**Senator Angara.** Yes. But this does not assume, Mr. President, that one can launder it only through a bank. One can also launder it through other institutions.

**Senator Magsaysay.** That is correct. One can even launder it by just buying a property or just putting it in stocks or other securities, buying shares of stocks, but eventually coming out as legitimate after the whole process of exercise.

**Senator Angara.** Let me just wind this up, Mr. President, by leaving the thought to my distinguished colleague that the Philippine banking system right now is fragile not because it lacks money or liquidity but because of its tremendous nonperforming assets. And therefore as long as that nonperforming ratio is high as it is, then our banking system is vulnerable. Now it will become even more vulnerable and, perhaps, even weaker if there is cause for people withdrawing their deposits from banks. Does the distinguished gentleman agree?

**Senator Magsaysay.** That is correct, Mr. President.

**Senator Angara.** That is why, the signal that we must send out to our people about this bill should not be such that they will get frightened putting their money in the banks. As *Ka Blas Ople* said during our caucus, there was a time when

people put their money in bamboos or even under their pillows. We may go back to that. Perhaps, we may not go back to that because now there are more sophisticated ways of squirreling one's money. I think that will be a great detriment to our banking system. Our banking system is still plagued with many problems. I do not think we should add another problem to it, Mr. President.

With that, I would like to thank my distinguished colleague for his patience.

**Senator Magsaysay.** It is my pleasure, Mr. President.

**The President.** The Majority Leader is recognized. Who is the next interpellator?

**Senator Legarda Leviste.** Mr. President, I move that Sen. Noli "Kabayan" De Castro be recognized for the continuation of the interpellation.

**The President.** Sen. Noli "Kabayan" De Castro is recognized.

**Senator De Castro.** Thank you, Mr. President.

Will the distinguished and respected sponsor of this measure yield for some simple questions that need simple but important answers, Mr. President?

**Senator Magsaysay.** I am very much honored getting the questions from the topnotcher of the May 14 elections, without a party, carried by the whole Filipino people on their backs, the gentleman from Mindoro.

**Senator De Castro.** Thank you, Mr. President. That is why I am sure that the ordinary *kabayan* of ours will be asking if they will have their chance *dito sa mga katanungang ibibigay ko*.

It would appear, Mr. President, that in the Declaration of Policy, Section 2, it puts more emphasis on laundered money from illegal acts committed outside of the country, *at hindi po dito sa ating bansa. Mahalaga po ito dahil ang* Financial Action Task Force or ang FATF is putting pressure on us, the Philippine Congress, to pass this measure up to September 30.

Will the good senator agree with me *na may* money laundering *din na nagmumula dito sa ating bansa*, unlawful acts *na nangyayari dito sa ating bayan? At mahalaga po ito dahil* the Judiciary may be misguided in case of future judicial determination of the intent of the law.

**Senator Magsaysay.** *Totoo po iyan, Ginoong Pangulo, sapagkat nakalagay dito sa* Section 2, "that the Philippines shall

not be used as a money-laundering site for the proceeds of any unlawful activity." So, *may mga* local crimes *iyang sigurado*. At the same time, we are aware that a lot of these criminal activities are extranational or transnational in nature. That is why we have included in the Declaration of Policy the cooperation in this transnational investigation.

**Senator De Castro.** Does the gentleman have any evidence, Mr. President, *na kung saan sa mga* news items *ay sinasabing* haven *tayo ng mga* money launderers? Do we have any evidence *na talagang ginagamit ng mga* money launderers, especially *ng mga* foreigners, *ang ating* Philippine banking system?

**Senator Magsaysay.** *Wala pang matatag na ebidensiya ngayon*, Mr. President, although *may mga* warning signs *ang* international financial community *na dahil sa masyadong mahigpit ang ating* Bank Secrecy Law, Republic Act No. 1405, *ay wala silang ano mang lakas na makakuha ng impormasyon sa data base dahil sa napakatinding probisyon ng* Republic Act No. 1405. *Kaya nga kailangan nating i-address ang isa sa mga puntos na iyan.*

**Senator De Castro.** *May posibilidad po, Ginoong Pangulo, na dahil mahigpit ang ating* Bank Secrecy Law, *ginagamit ng mga* money launderer *iyong kahigpitan ng* Bank Secrecy Law?

**Senator Magsaysay.** *Totoo po iyan, Ginoong Pangulo. Ako po ay binigyan ng aking technical staff sa FATF ng statistics kung saan ay nakalagay ang Pilipinas bilang isa sa mga noncooperative countries and territories, kaya napakataas ng ating mga* suspicious transaction. *Kaya kung titingnan natin itong* suspicious transactions between April 1996 to July 15, 2000, that is about 52 months. *Kung ang* Russia *ay may* 847 suspicious transactions, *tayo ay may* 566. *Ang* Panama *ay may* 435. *Ang* Israel *ay mataas din noong araw, 495, pero bumagsak sa 71. Pero tayo ay may* 566. *Kaya ito ang* 15...

**Senator De Castro.** Suspicious transactions, Mr. President. *Ano po ang naging basehan para ito ay maging* suspicious transaction?

**Senator Magsaysay.** These are transactions *na nagkaroon ng malalaking krimen kagaya ng* drugs, kidnapping, *pati na ang* carnapping at graft and corruption. These are the three basic—drugs, kidnapping, and graft and corruption. Not necessarily in that order.

**Senator De Castro.** How about terrorism?

**Senator Magsaysay.** *Kasama na rin iyon. Alam namanninyo ang nangyayari sa* South. The Abu Sayyaf group has been terrorizing and kidnapping and doing violence to our whole country. *Kaya kasama na ang terorismo roon.*

**Senator De Castro.** *Kung sakali, Ginoong Pangulo, na maipasa natin ang panukalang batas na ito, ang isa sa kinatatakutan ng mga mamamayan ay baka raw magkaroon ng* bank run *o* panic among the domestic depositors, *kung sakali mang mag-alisan ang* laundered money accounts *sa ating mga* bangko.

*Mga ilang porsiyento kaya iyan ng* laundered money *natin sa* bangko based on the report of the FATF on those suspicious transactions *sa mga* bangko *natin?* Do we have an idea?

**Senator Magsaysay.** *Ang tanong ay iyong* laundered money *na aalis, lalayas sa* ating mga bangko.

**Senator De Castro.** Yes, Mr. President.

**Senator Magsaysay.** *Wala po tayong* hard evidence *dito kung gaano kalaki.* But the fact *na mayroon tayong* suspicious transactions *na halos kapantay ng* Russia *at* Panama *at* Cayman Islands, *na kabilang sa* 15 noncooperative countries, *sa palagay ko ay* malaki rin.

**Senator De Castro.** Is it fair, Mr. President, to conclude that it could lead to the fall of our domestic banking system, just in case?

**Senator Magsaysay.** I am sorry, Mr. President?

**Senator De Castro.** Is it fair to conclude that that could lead to the fall of our domestic banking system?

**Senator Magsaysay.** I do not think that that would lead to the diminution of our banking system. On the other hand, if we do not pass the law, our banking system is expected to encounter a lot of difficulties. That is why even the Bankers Association of the Philippines has been moving everything so that we can pass the law before the deadline.

Their fear is that this will just about make them a pariah, a financial leper in consonance with the rest of the global financial community. That is why they are coming here and telling us to pass the law without any exception.

**Senator De Castro.** *At kung sakali pong hindi natin maipasa ang panukalang-batas na ito, itong anti-money laundering law, ano ang magiging repercussions?*

**Senator Magsaysay.** *Nabanggit nga natin na mayroon tayong mga* obligatory surveillance. *Sapagkat kapag nagbukas tayo ng* account *sa* CitiBank *o* *sa* malalaking bangko, *mayroon*

na tayong pipirmahang waiver. Ang ibig sabihin, hanggang wala pa tayong naipapasang batas to address this issue, ngayon pa lamang ay pinipilit na ang mga bagong nagdedeposito na pumirma ng waiver so that if and when their correspondent banks in other countries will say, "Will you please open the account of Mr. Joe dela Cruz," doon sa waiver na iyon ay binigyan ninyo ng kâpangyarihan iyong bangko na buksan ang iyong account.

Ang ibig sabihin, Ginoong Pangulo, ang bangko na mismo, the private banks and even the government banks, are taking the initiative, short of having a law, to already protect themselves by asking for that waiver when one opens an account.

**Senator De Castro.** Mr. President, in Section 3, Definition of Terms, we enumerated all the institutions and entities under the supervision or regulation of BSP—Insurance Commission or IC, the Securities and Exchange Commission, Pagcor, and DTI. In the first place, *bakit po kasama ang Pagcor?*

**Senator Magsaysay.** Alam po ninyo, by its nature, iyan ay isang government corporation na nagbibigay ng atraksiyon sa mga gambler at speculator. Isinama natin iyan because that is one best way to launder money. Na kunwari ay nanalo siya ng ilang milyon, wala na, no questions asked.

**Senator De Castro.** Kaya, magsasara na rin ang Pagcor dahil wala nang magsusugal?

**Senator Magsaysay.** Hindi, hindi naman magsasara. Ang ibig sabihin, Pagcor is enjoined to show its information as to whether this person, in fact, won by so much or he was just making it an excuse for him to be carrying a certain amount to be deposited eventually in the bank. Information sharing.

**Senator De Castro.** So, why do we have to delegate our powers to the councils in identifying government agencies if we could already identify them? What I mean is, *bakit hindi na lamang natin lagyan ng period (.)* after the word "agencies" in line 17 of page 1 to make the enumeration exclusive? *Hindi po ba puwedeng ganoon, Mr. President?*

**Senator Magsaysay.** Ito po, Ginoong Pangulo, ay isa sa mga limang basic elements na hinihiling at ninanais ng FATF. This is the fourth of the five elements. Quoting again, "The creation of an Anti-Money Laundering Council or Task Force, an office tasked to do financial intelligence activity and will also serve to maintain a data base of possible money-laundering transactions, and that will help the expertise to analyze such data for use in arresting and prosecuting money launderers."

That is one of the five basic elements. *Nabanggit natin dito sa ating caucus na mayroon pong 40*, originally. I think Senator Pangilinan would like to expound further. Yes, Senator Pangilinan, my cosponsor, will expound further.

**The President.** With the permission of the two gentlemen on the floor, Senator Pangilinan is recognized.

**Senator Pangilinan.** Yes, Mr. President, if I may just add.

The question being raised is, why not put a period (.)? Why did we have to add the phrase "all other similar government agencies identified by the Council," and so forth and so on? Ito po ay inilagay natin base sa mga naging karanasan ng mga nag-iimbustiga sa criminal activities na isinasagawa ng mga kriminal. Very creative sila. Iba't ibang paraan ang kanilang isinasagawa. Kapag nakita nilang medyo naiipit sila sa bangko, pumupunta sila sa casino. Pag nakikita nilang naiipit sila sa casino, gumagawa sila ng paraan para dalhin iyon sa iba pang mga institusyon o iba pang mga gawain. Kaya inilagay natin itong clause na ito para mabigyan din iyong council ng adaptability sa mga posibleng estratehiya o palusot na gagawin ng mga nagma-money launder. Ang sabi nga nila, greed is an incentive to be creative. Ang ibig sabihin po, dahil sa kasakiman ay gagawa ito ng paraan para gumawa ng pera.

Dito ay bibigyan natin ng kapangyarihan iyong council upang sa darating na mga araw ay maharap nito ang problema tungkol sa money laundering.

**Senator De Castro.** All right. Mr. President, I would like to thank the gentleman from Pasay and Quezon City. Under Section 3, paragraph (d), on "Covered Transaction," *ano ang naging basehan*, or what made the committee decide to limit the transaction involving an amount in excess of P1 million?

**Senator Magsaysay.** Ang dati po ay half-a-million pesos—

**Senator De Castro.** Five hundred thousand.

**Senator Magsaysay.** —based on, more or less, \$10,000 which the US, I think, is triggering the query. *Noong makita namin ni Senator Pangilinan iyong House version na P1 million, gusto ito ngayong itaas.* In fact, some of our senators want P2 million; we settled for P1 million. Please note that in other countries like Hong Kong and nearby countries, there is not even a threshold. Open, *maski na* below US\$10,000 or above US\$10,000. So, this is basically a threshold wherein the ordinary depositor, the legitimate depositor will not feel that he has to answer to all these new changes in the banking system. *Binigyan natin ng kahalagahan iyong sinabi ni Senator Angara na huwag nating kalampagin o bigyan ng concern iyong legitimate depositor.*

**Senator De Castro.** *Hindi po ba sa US, kapag nagdeposito kayong US\$10,000 ay ire-report ninyo lamang? At may discretion din ang bangko kung ire-report naman ito to whatever agency na nangangailangan ng report?*

**Senator Magsaysay.** *Totoo po iyan. Ang tawag nila riyon, under the Department of Treasury, ay Financial Investigative Unit or FIU.*

**Senator De Castro.** *Hindi po ba napakaliit na pera ngayon iyong P1 million? Dati-rati, 20 or 30 years ago, if one has P1 million in the bank, he is considered a millionaire. But now, after 30 years, I think P1 million is only equivalent to P500,000 or P100,000. Hindi po maliit iyong P1 million?*

**Senator Magsaysay.** *Mukhang maliit nga po. Pero nabanggit ninyo kanina na sa Philippine Deposit Insurance Corporation or PDIC, we have almost 93 percent of all the 20 million or such depositors in the banking system, P200,000 and below iyong mga 93 percent na. Kaya iyong seven percent ay P200,000 and up. Iyong P1 million, walapa sigurong uma-average ng two percent or three percent of the whole total depositors in the country, Mr. President.*

**Senator De Castro.** And here is another simple question. If I have P10 million na ila-laundry na pera, puwede ko po bang palusutin ito and look for 10 different banks, not branches, and deposit P1 million each on these banks?

**Senator Magsaysay.** Posible po iyan, Ginoong Pangulo. Ang sabing, iyong mga Pilipino ay creative. Pero may pagkakaisa iyang mga bangko. Kung hindi nila kilala iyong customer at nag-iiba-iba ito ng pangalan, gumagamit ng fictitious name, isang isyu na iyon. Dapat magpakita kayo ng customer identification. Kung mayroon kayong mga kamag-anak at ibubudbod ninyo iyong sampung tig-P1 million, iyong mga kamag-anak ay tetestingin sa Customer Identification Information kung ano ang kanilang hanapbuhay, saan sila nakatira, et cetera. Iyan ay isang malaking tulong doon sa discovering laundered money. "Know your customer." Kaya iyan po ay isa sa pinakamahalaga doon sa limang nakalagay sa listahan natin,—knowing the customer, customer identification.

**Senator De Castro.** Ginoong Pangulo, kung kilala ninyo ang customer pero hindi ninyo alam kung iyong perang idedeposito ay nanggaling sa illegal or laundered money, puwede bang maging basehan lamang ang depositor or client of the bank?

**Senator Magsaysay.** *Isang basehan po iyon. Makikita naman siguro ng bangko iyong galaw ng account at kung kilala nito ang depositor. Kung biglang tumaas, at alam ng bangko na isang supervisor lamang siya sa isang manufacturing company*

*na kumikita ng beinte mil, at nagkaroon siya ng P1 milyon o P2 milyon, that will trigger a question. Kukuwestiyunin iyan ng bangko. At hindi naman magsasalita ang bangko kung legitimate ito after asking the client that it knows. Pero kung nakikita nilang mukhang malabo ang explanation, that might make the bank go to the FATF, to the local task force or council para sabihin na, "Mukhang may kaunting suspicion kami dito."*

**Senator De Castro.** Is it automatic, Mr. President, that the bank will have to report it to the Anti-Money Laundering Council?

**Senator Magsaysay.** The bank is given the responsibility or accountability to report suspicious transactions when there is substantial evidence. Kaya mayroon silang mga level of suspicion. And bank employees are even penalized if they do not do such reports.

**Senator De Castro.** Let us go back to this P1 million. May data ba tayo to show kung ilang individual ang nagdedeposito ng above P1 million, Mr. President?

**Senator Magsaysay.** *Iyan ang wala tayo, Ginoong Pangulo, sapagkat ang alam lamang natin ay iyong sa PDIC. But that is the best we can do. The PDIC has statistics to show that both the FCDU and peso deposits have about 18.6 million depositors at ang thrift banks naman ay about 2.9 million depositors, so a total of about 21.5 million depositors. But over 93 percent of these are within the P200,000 and below average deposit at any one time.*

**Senator De Castro.** All right.

**Senator Magsaysay.** Now, I would project, Mr. President, that those who have an average deposit of, let us say, P800,000 and above or a million and above would not even be two percent or three percent at the most.

**Senator De Castro.** Is there any instance na ang government fund ay mahahaluan po ng laundered money, Mr. President?

**Senator Magsaysay.** Precisely, Mr. President. Senator Arroyo, during one caucus last week, before he signed the committee report—Senator Flavio was also there and the Senate President dropped in—removed the exemption of government departments and agencies. That means na wala nang exemption, because we know for a fact that some government agencies have that stigma of doing some level of corruption.

**Senator De Castro.** I ask this question, Mr. President, because government fund is subject to comprehensive audit, hindi po ba? Kung kaya parang mahirap mahaluan ng laundered money coming from illegal activity or activities.

**Senator Magsaysay.** *Totoo po iyan.* But some government agencies may accept donations.

**Senator De Castro.** *Hindi po ba isasama ito sa regular fund ng isang agency if it will accept some donation? Kasama po ba iyon sa regular fund, let us say, the budget approved by the Congress of a certain agency?*

**Senator Magsaysay.** *Mapupunta po siguro iyan sa Treasury.*

**Senator De Castro.** *Babalik sa Treasury?*

**Senator Magsaysay.** *Babalik sa Treasury.*

**Senator De Castro.** All right. How about funds from illegal sources *na ginagamit bilang contribution sa campaign funds ng mga kandidato tuwing eleksiyon? Kasama rin ba ito sa mga covered transactions under paragraph (d) of Section 3?*

**Senator Magsaysay.** *Puwede iyan ma-cover basta inireport doon sa... May batas tayo na we have to report to the Comelec our campaign expenses. Now, hindi natin kasalanan kung hindi inireport lahat. But that should be covered, Mr. President.*

**Senator De Castro.** Mr. President, let us go to "Unlawful Activity" on page 3, line 11, *partikular itong binabanggit na swindling and other deceits under Articles 315 and 316.*

Under Article 315 of the Revised Penal Code, *wala tayong problema roon.* However, I am putting some emphasis on subsection 2 (d) of Article 315, which I quote: "By postdating a check or issuing a check in payment of an obligation when the offender had no funds in the bank or his funds deposited therein were not sufficient to cover the amount of the check..."

*Ginoong Pangulo, bukod po sa probisyong ito, mayroon tayong Batas Pambansa Blg. 22, or the Anti-Bouncing Check Law. Kung isasama natin ito sa ating panukala, in effect, magiging tatlo na ang posibleng maisasampung kaso. Tama po ba ako?*

**Senator Magsaysay.** *Tama po iyan.*

**Senator De Castro.** *I-include po uli natin iyong Batas Pambansa Blg. 22 or the Anti-Bouncing Check Law?*

**Senator Magsaysay.** *Totoo po iyan.*

**Senator De Castro.** Mr. President, let us now go to the definition of money laundering under Section 4, on page 4, line 25. *Pinag-usapan ninyo kanina ni Senador Angara ang tungkol sa definition ng "laundering." Pinag-uusapan namin ang*

*definition ng "Laundering," coming from the word "launder," "laundry." Hindi po ba pag sinabing "laundry" naglalaba tayo?*

**Senator Magsaysay.** *Totoo po iyan.*

**Senator De Castro.** *Nangangahulugan po ba na pag sinabing "launder" nilalabhan natin o nililinis natin iyong perang madumi o nanggaling sa illegal activities o illegal source?*

**Senator Magsaysay.** *Totoo iyan. Dahil ang ibig sabihin ng "launder" ay labhan. Sa Español, lavar, meaning "to wash." Kaya nililinis natin, naglalagay tayo ng kaunting detergent papasok sa laundry machine, at paglabas ay semi-clean na.*

**Senator De Castro.** Semi-clean.

**Senator Magsaysay.** *Iyan iyong deposit process.*

**Senator De Castro.** Wala nang kula-kula?

**Senator Magsaysay.** *Tapos iyong layering. Puwedeng magkula rin. Iyon ang layering, iyong pagkula, Mr. President.*

**Senator De Castro.** Mr. President, supposing a cash, which is the proceed of an unlawful activity, was placed in a bank, say, more than P1 million. So money laundering *na iyan.* The depositor, in depositing the cash in the bank, uses his true name. *Iyong tunay niyang pangalan ang ginamit niya.* In other words, *hindi niya itinago o hindi siya nag-disguise sa pagdedeposito ng pera sa bangko. Nangangahulugan bang may money laundering dito?*

**Senator Magsaysay.** *Posible po iyan kung hindi niya masasagot iyong kaniyang economic means, kung siya ay bagong depositor o siya ay may existing account. Pero nakikita ng mga teller ng bangko na iyong kaniyang existing account ay paakyat, maliit lamang at biglang naging P1 million. That will trigger the query, the report. Magtatanong ngayon ang teller, "Mr. Dela Cruz, bigla yata kayong sinuwerte. Saan ba galing ito?" Ngayon, puwede nang magsabi si Mr. Dela Cruz na nanalo siya sa lotto. Hihingin naman iyong ticket sa lotto.*

**Senator De Castro.** *Kaya sa tuwing tayo ay magdedeposito ng more than P1 million lagi tayong tatanungin?*

**Senator Magsaysay.** Not necessarily, Mr. President. Kung iyong account holder *ay korporasyon, pababa o paakyat ang account, the bank can easily see that because may mga resibo naman iyan. Usually ay may accounting standards ang mga korporasyon.*

**Senator De Castro.** *Ang mangyayari po niyan, pag hindi kilala ang depositor, that is the only time na kukuwestyunin: siya*

ng bank teller. Pero kung kilala ng teller, halimbawa, si Sen. Juan M. Flavier, at magdedeposito siya ng more than P1 million, there will be no questions asked, Mr. President?

**Senator Magsaysay.** *Depende po. Kung si Sen. Juan M. Flavier ang magdedeposito, sa tingin ko, no questions asked. Sapagkat alam naman ng mga tao na napakasimpleng senador ito.*

**Senator De Castro.** *Opo, pero more than P1 million ang idedeposito niya. Siya ay isang simpleng tao.*

**Senator Magsaysay.** Doctor of Medicine *din siya.*

**Senator De Castro.** *Ah, opo.*

**Senator Magsaysay.** *Malakas din ang kita ng isang Doctor of Medicine.*

**Senator De Castro.** So, in a way, *inaamin po natin na kapag hindi kilala ang isang nagdedeposito ng more than P1 million, puwede siyang kuwestyunin. Pero kung kilala ang isang tao, no questions asked.*

**Senator Magsaysay.** *Depende nga roon sa nakikitang galaw noong account. Ang tawag diyang ay monthly average. Maski kilala kayo pero biglang umakyat ang account ninyo at hindi ninyo nasagot ang tanong, baka mag-trigger ng suspicion.*

**Senator De Castro.** Supposing I was requested by a person who was involved in unlawful activity to deposit the money in my own name without knowing that it came from unlawful activity, did I commit money laundering here, Mr. President?

**Senator Magsaysay.** Is the owner of the account guilty?

**Senator De Castro.** No, Mr. President.

**Senator Magsaysay.** *O ginamit iyong kaniyang account in good faith?*

**Senator De Castro.** *Nagpadeposito sa akin. Ngunit hindi ko alam that the money came from unlawful source.*

**Senator Magsaysay.** Correct.

**Senator De Castro.** Is there money laundering there?

**Senator Magsaysay.** *Wala. Walang crime diyang dahil there is no knowledge. There is no evil intention. But if there is knowledge, it is an element of the crime.*

**Senator De Castro.** Is there an instance that the ordinary teller of a bank who assisted in the deposit of laundered money will be liable for money laundering?

**Senator Magsaysay.** Yes, she may be liable. If she knew that this is dirty money and she assisted, then she becomes an accomplice.

**Senator De Castro.** Or if she did not report the money in question.

**Senator Magsaysay.** Or did not report, yes.

**Senator De Castro.** *Ginoong Pangulo, kapansin-pansin po ang ginawa nating pag-amiyenda sa Bank Secrecy Law na kung saan ay binigyan natin ng kapangyarihan o powers ang council na mag-examine ng bank deposits. Tama po ba ito?*

**Senator Magsaysay.** *Totoo po iyan. Mayroon tayong ginawa upang mabuksan nang kaunti ang Bank Secrecy Law through an amendment bagaman may mga safeguard.*

**Senator De Castro.** *Naitanong ko po ito, Ginoong Pangulo, dahil wala pa tayong nakikitang contradiction dito sa Section 16 at sa naunang Section 9, kung saan ang korte ay binigyan natin ng jurisdiction upang mag-isyu naman ng search warrant.*

**Senator Magsaysay.** *Kung ang Monetary Board ay pumapayag na ituloy... Maybe Senator Pangilinan can expound.*

**Senator Pangilinan.** Thank you, Mr. President. *Kinakailangang paghiwalayin po natin iyong Section 9 at Section 16. Under Section 16 binibigyan natin ng kapangyarihan ang Monetary Board, matapos hilingin ng Council, na mabuksan ang mga bank record habang ito ay under investigation. Ang ibig sabihin, with the approval of the majority of the Monetary Board—four out of seven members—after the request has been done by the Council. Kinakailangang tatlo sa Council ang mag-request nito. Puwedeng ma-access iyong bank records. This is Section 16.*

*Sa Section 9, pinag-uusapan na rito ang forfeiture ng mga assets. Kung titingnan po natin ang Section 7, ito ay tungkol sa Freezing of Assets; Section 8, Preservation of Assets; and Section 9, Search and Seizure of Assets. Ang ibig sabihin nito, nadetermina na mayroon nang unlawful activity, mayroon nang kasong money laundering na maisasampa sa korte. Ngunit sa Section 16, this is not in the case itself. It is pending investigation.*

**Senator De Castro.** How about iyong power ng Council na mag-examine na ng bank deposits? *Mauuna muna iyong examination ng bank deposits bago mag-serve ng search warrant?*

**Senator Pangilinan.** *Hindi po. Ginoong Pangulo. Iyong pag-e-examine ng bank records ay maaari lamang gawin ng komite matapos itong maaprubahan ng Monetary Board. Kaya hindi korte kundi Monetary Board ang...*

**Senator De Castro.** *Ng Bangko Sentral.*

**Senator Pangilinan.** Yes. Four out of seven members ng Monetary Board ang kailangang bumoto ng pabor para mabuksan ang bank records ng isang depositor, hindi korte, according to Section 16.

In other words, administrative body lamang ang may access. Sapagkat sa ilalim ng ating Bank Secrecy Law, maaari lamang mabuksan ang mga bank record kung may consent ang depositor o kaya ay may court order.

**Senator De Castro.** Court order. Thank you very much, Mr. President.

Finally, Mr. President, aware ho ba tayo—and I am sure na aware tayo o baka lamang nakakalimutan natin itong cyber laundering. Posible po bang may nagaganap nang money laundering dito sa ating bansa, iyong tinatawag na "cyber laundering?" Nabanggit ko po ito sapagkat kailangang preparado tayo dito sa lumalaganap na cyber laundering.

Ayon sa isang artikulo, umaabot daw po sa US\$2 trillion sa Amerika ang illicit wire transfers na madaling maitago, Ginoong Pangulo.

**Senator Magsaysay.** *Totoo po iyan. Iyong tinatawag nating cyber laundering ay covered dito. Kahit noong wala pa tayong E-commerce Law ay nangyayari na iyan doon sa mga electronic transfer, wire transfer. Even through fax during those times in the 1970s—by fax machines or telex.*

*Natatandaan ko na may isang foreign bank na tinamaan dahil nagkaroon ng kutsabahan. At napakalaki ang nawala doon sa foreign bank na iyon. I think the bank is Carnegie or Mellon Bank, Mellon Bank of the United States.*

*Nakalagay po dito sa page 4 iyong violations under the E-commerce Law. Kasama dito as one of the criminal activities.*

**Senator De Castro.** This is the Electronic Commerce Act of 2000?

**Senator Magsaysay.** That is correct, Mr. President. On page 4, line 18(x).

**Senator De Castro.** Thank you very much, Mr. President. I

thank the honorable senator from Zambales for answering some of my clarificatory questions regarding money laundering.

Thank you very much. *Salamat po.*

**Senator Magsaysay.** Thank you, Mr. President.

**The President.** The Majority Leader is recognized.

**Senator Legarda Leviste.** Mr. President, I move that Sen. Sergio R. Osmeña III be recognized for the continuation of the interpellation.

#### SUSPENSION OF SESSION

**The President.** Before the Chair recognizes Sen. Sergio R. Osmeña III, can the Chair request a one-minute suspension of the session, if there is no objection? [*There was none.*]

*It was 5:55 p.m.*

#### RESUMPTION OF SESSION

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

**The President.** The session is resumed.

Sen. Ramon B. Magsaysay Jr. and Sen. Sergio R. Osmeña III are recognized for the continuation of the interpellation.

**Senator Osmeña III.** Thank you, Mr. President. Will the distinguished sponsor yield for a few questions?

**Senator Magsaysay.** Certainly, Mr. President.

**Senator Osmeña III.** Mr. President, we are gratified that the distinguished sponsor has come up with a committee report so quickly. We are presently surprised and we are hopeful that this country will finally adopt a version of this bill into law in order to limit the activities of criminals in our country and in our society.

Now, Mr. President, under the proposed committee report, what is criminalized? Is money laundering criminalized alone? Or are there other acts or omissions criminalized also?

**Senator Magsaysay.** Mr. President, what is criminalized is the act of money laundering *per se*. When dirty money is deposited into the economic stream of the country, usually deposited in banks, and is going to other economic activities.

**Senator Osmeña III.** What about nonreporting of a transaction above the statutory amount of P1 million, is it not also criminalized?



**Senator Magsaysay.** Yes, this is also criminalized in the sense that there is willful withholding of information that could lead to a money-laundered account.

**Senator Osmeña III.** Suppose it does not lead to a money-laundered account?

**Senator Magsaysay.** Then the whole question is moot and academic, Mr. President.

**Senator Osmeña III.** Therefore, Mr. President, we would be encouraging people not to report because the chances are most of these transactions will not be the fruits of criminal activities.

In essence, Mr. President, what I am trying to point out is that the mere fact that a bank officer or an insurance officer does not report is criminal enough, regardless of whether the monies involved are the fruits of criminal activities.

**Senator Magsaysay.** Yes, Mr. President.

**Senator Osmeña III.** Failure to report. I thank the gentleman for that, Mr. President.

Now, there was outlined in the gentleman's proposed law, unlawful activities and felonies and offenses, but I failed to see the crime of the fruits from prostitution. Is prostitution one of the crimes that is subject to the anti-money laundering law?

**Senator Magsaysay.** In the original version, it was included but somebody from the House panel removed this. Although child prostitution is included--this is on page 4, line 7.

**Senator Osmeña III.** Yes, we see that, Mr. President, but unfortunately, first, why would somebody from the House be able to amend a committee report of the Senate?

**Senator Magsaysay.** This is not an amendment, but we were working together closely. We had the agreement that the House version and the Senate version will be as close as possible to each other, because the version that was given to us by the BSP, BAP, the interagency group, was the root of both the House and the Senate working bill that was the source of this committee report, Mr. President. So we were working quite closely with the House up to a certain level.

**The President.** May I invite the attention of the gentlemen on the floor to line 19 of page 3. The impression of the Chair is that white slavery is prostitution.

**Senator Magsaysay.** That is correct also, Mr. President.

**The President.** So it is included in the unlawful activities enumerated.

**Senator Magsaysay.** So the term "Prostitution" is covered by white slavery and thus the term is redundant.

**Senator Osmeña III.** All right. I thank the gentleman for that clarification, Mr. President.

What about counterfeiting? Is counterfeiting one of the offenses under the proposed law?

**Senator Magsaysay.** It used to be included, Mr. President.

**Senator Osmeña III.** It used to be included. Does the gentleman mean that it is now excluded?

**Senator Magsaysay.** Yes, Mr. President.

**Senator Osmeña III.** Is there any reason for that, Mr. President? Are we going to give exemptions to counterfeiters?

**Senator Magsaysay.** This was suggested by the House and we accepted it. We feel that counterfeiting is already covered by some other laws.

**Senator Osmeña III.** Some other laws that are listed hereunder? May we know which law would that be?

**Senator Magsaysay.** This must be a fraudulent practice. On page 4, No. 20.

**Senator Osmeña III.** Under Republic Act No. 8799?

**Senator Magsaysay.** That is right.

**Senator Osmeña III.** That would be the Securities Regulation Code, Mr. President.

**Senator Magsaysay.** Well, the counterfeit is part of securities.

**Senator Osmeña III.** May we get a clarification from the staff, or may we specifically ask for the provision in the Securities Regulation Code?

**Senator Magsaysay.** My staff made mention that it was originally there and the House panel sought to have it removed. If the gentleman wishes to put it back, we have no objection, Mr. President.

**Senator Osmeña III.** I thank the gentleman for that, Mr. President.

What about fruits from espionage?

**Senator Magsaysay.** It was never included, Mr. President. If the gentleman wishes to include that, we have no objection.

**Senator Osmeña III.** What about from insurance fraud?

**Senator Magsaysay.** It is never included.

**Senator Osmeña III.** What about bank fraud?

**Senator Magsaysay.** I beg your pardon, Mr. President?

**Senator Osmeña III.** The fruits of bank fraud, fraudulent banking practices.

**Senator Magsaysay.** According to our legal staff, this is covered by swindling.

**Senator Osmeña III.** Swindling. I guess that also covers embezzlement, estafa and the like.

**Senator Magsaysay.** Yes, Mr. President.

**Senator Osmeña III.** All right. I would like to thank the gentleman for that. What about tax fraud, tax evasion?

**Senator Magsaysay.** This was removed.

**Senator Osmeña III.** Is there any particular reason tax fraud was removed, Mr. President?

**Senator Magsaysay.** Well, this was removed ostensibly because this is a crime that has its own penalty. This is covered by the Comprehensive Tax Reform Program (CTRP) law. In fact, during the caucus this noon, some of our colleagues wanted to even reduce the coverage because we are concentrating on the basic major crimes that are large and transnational, like terrorism, drugs, kidnapping and the like.

But if the gentleman wishes to include this tax evasion, we have no objection, Mr. President. We also removed this, I think. Some of the observations is that a lot of our small and medium businessmen, our ethnic Filipinos, deem this to be used as a reason for harassment, and we know that this will be a disincentive for them to do business in the sense that they can be harassed by including this tax evasion. I think that is one of the major reasons we accepted the House proponents' version excluding that particular crime.

**Senator Osmeña III.** Mr. President, I always hear that excuse. First, I would like to preface my next remark that I understand the

dilemma that the good sponsor finds himself in. We are trying to get a law on the statute books and there have to be compromises no matter how unpalatable, as we know, laws are crafted.

But still I just want to put on record, Mr. President. I always hear that excuse from businessmen who do not like to pay their taxes and intend to block laws that would force them to pay the correct amount of taxes by saying they would be subjected to harassment. So why does the gentleman not walk us through that? How does the harassment take place?

**Senator Magsaysay.** Does the gentleman want to put his amendments? We have no objections.

**Senator Osmeña III.** No. We have to explain on record how such harassments take place.

**Senator Magsaysay.** I am not privy to that, Mr. President. I have not experienced that.

**Senator Osmeña III.** That is right. But it was something that the chairman accepted as a valid argument earlier.

**Senator Magsaysay.** I think it is known that like the Italians, the average Filipino small-scale or medium-scale businessman would rather work on a cash basis. Thus, there are no records, and that is one way to avoid taxes.

**Senator Osmeña III.** Would that be harassment?

**Senator Magsaysay.** I beg your pardon, Mr. President?

**Senator Osmeña III.** Where does the harassment come in when it is the businessman himself who elects to do business on a cash basis?

**Senator Magsaysay.** The harassment might happen if they see a businessman and he has no tax payments, so he might be harassed—"Why are you not paying your taxes when you are earning so much?"

**Senator Osmeña III.** Is that recommended or not recommended?

**Senator Magsaysay.** I do not know whether it is recommended or not recommended but tax evasion is illegal. If the gentleman wants to put his theory, we have no objections.

**Senator Osmeña III.** Again, Mr. President, I just wanted to make sure that we are able to explain or to spread in the *Record* the various reasons put forth by objectors to certain provisions that were under past versions of this proposed bill which have been deleted.

Mr. President, may we ask from the distinguished sponsor who do we intend to catch if we pass the anti-money laundering bill into law?

**Senator Magsaysay.** We intend to catch criminals, those who have done illegal activities, who are putting their dirty money, their ill-gotten money, into the banking or other economic systems. This is the dirty money that we are trying to trace, ferret out and maybe even confiscate so that he—the criminal—will not enjoy the fruits of his criminality, of the crimes he has committed.

**Senator Osmeña III.** And perhaps this is also a secondary way to nail those who we cannot nail on the primary offense.

**Senator Magsaysay.** That is correct.

**Senator Osmeña III.** In much the same way that Al Capone was nailed on tax charges but never on murder, bootlegging or other criminal activities that he was so notorious for.

**Senator Magsaysay.** That is correct.

**Senator Osmeña III.** Therefore, Mr. President, we intend to catch kidnapers through this, do we not? We intend to catch bribetakers.

May we just have the answer for the record, Mr. President?

**Senator Magsaysay.** Is the gentleman asking me a question?

**Senator Osmeña III.** Yes, we are.

**Senator Magsaysay.** I thought the gentleman is making a statement, Mr. President. Yes, on both counts.

**Senator Osmeña III.** We intend to catch *jueteng* lords.

**Senator Magsaysay.** Yes, Mr. President.

**Senator Osmeña III.** We intend to catch corrupt politicians.

**Senator Magsaysay.** That is correct.

**Senator Osmeña III.** We intend to catch tax evaders.

Now, Mr. President, that being the case, is there any peculiar reason under the definition of "Unlawful Activity" we have limited ourselves—and not being a lawyer, certainly I am not familiar with all the laws in our statute books or in our codes—to enumerating the crimes that would be covered by the term "Unlawful Activity." Would "unlawful activity" not be anything that is against our law?

**Senator Magsaysay.** Certainly, Mr. President.

**Senator Osmeña III.** Therefore, would it be an improvement on the bill if we just say something like "anything that is against the law will be unlawful activity as far as the anti-money laundering bill is concerned?"

**Senator Magsaysay.** For that matter, if that is introduced, we can consider that to make it sweeping. But as I said earlier, we wanted to concentrate on the major crimes, drugs being one of the most important sources of criminal money, and this was triggered by the problem with dirty money coming from drugs. But if the gentleman wishes to put his own amendments, we have no objection, Mr. President.

**Senator Osmeña III.** I would like to thank the gentleman for that. Let us pursue that line a little bit further. Let us say I am a drug lord from Burma. Let us say that the Philippines has just passed its anti-money laundering law and that the fruits of kidnapping are not included, only the fruits of drug money are included. Therefore, sitting on a pile of money I earned from my drug-manufacturing activities, can I not do a deal with the kidnapers, say, in Basilan and say, "I will pay you the money." Now it becomes kidnapping money and this is exempt from the anti-money laundering law?

What I am trying to point out is, if we have a small *lusot* as they say in Tagalog, then the monies can be funneled to that particular area which is exempt from the coverage of the money laundering law, and that is my fear, Mr. President. If we exempt, let us say, for example, the fruits of tax evasion, then I will just say, "Well, this money came from my tax-evading activities."

**Senator Magsaysay.** We have a provision here in line 23 that includes felonies.

**Senator Osmeña III.** On what page, Mr. President?

**Senator Magsaysay.** Page 4—Felonies or offenses of a similar nature.

**Senator Osmeña III.** That is another question I have. "Similar nature as the above..."

**Senator Magsaysay.** As the above, yes.

**Senator Osmeña III.** All right. I even have a particular question for line 24 on what are punishable. It reads, "...under the penal laws of the country where the felony or offense was committed."

Now, Mr. President, if it is not an offense in the Philippines but an offense in the United States, would that be covered by our anti-money laundering law?

**Senator Magsaysay.** Our cosponsor will answer that.

**Senator Osmeña III.** Certainly.

**Senator Pangilinan.** Thank you, Mr. President.

If the predicate offense is committed in the United States and the money is brought to the Philippines and the money is deposited in the Philippines and that offense is of a similar nature as the above, this is punishable under the penal laws of the United States. The offender can be prosecuted for money laundering here.

**Senator Osmeña III.** So therefore it must have both, as they say in poker.

**Senator Pangilinan.** Yes, Mr. President.

**Senator Osmeña III.** In other words, if it is an offense in the United States but not an offense here, we may not use the anti-money laundering law to confiscate, forfeit or even prosecute the person or persons charged therewith under the US law.

**Senator Pangilinan.** Yes. If it is punished under the foreign law, we can prosecute for money laundering here.

**Senator Osmeña III.** How is that so, Mr. President? If somebody in the United States is charged with tax evasion and we pass this bill as is wherein tax evasion is not a crime, how can we prosecute somebody under an offense which under our own statutes is not a crime? Would that not be unconstitutional or will we be implementing the laws of the United States of America instead of our own?

**Senator Pangilinan.** Mr. President, as long as the crimes mentioned are similar to the crimes committed or committed in other jurisdictions are similar to the crimes listed here, then they can be punished here.

**Senator Osmeña III.** That is correct. So therefore, my specific question is, if we pass this bill the way it is now written, this committee report where tax evasion is not a crime, where tax fraud is not a crime, this is not a crime under the definition of "unlawful activity" covered by this proposed law. In the United States, it is a crime. Therefore, do we accommodate the United States and do we arrest someone who has fled to the Philippines or at least used the Philippines as a money laundering haven for the fruits of his tax evasion?

**Senator Pangilinan.** If we follow the distinguished senator's line of argument, Mr. President, and tax evasion is not included in the list of predicate offenses, then he cannot be prosecuted here in the Philippines for tax evasion committed and eventual money laundering done here for tax evasion committed in the US.

**Senator Osmeña III.** Therefore, Mr. President, since tax evasion is indeed a crime in our country, as the distinguished sponsor earlier said, it would be good to include it already in the list of unlawful activities.

**Senator Magsaysay.** I mentioned that earlier that the distinguished gentleman may amend that as he wishes, Mr. President.

**Senator Osmeña III.** Yes, we heard that and we are grateful for that, Mr. President.

Let us go to another point. Which type of countries, Mr. President—in the studies done by the committee or the technical working group, the joint advisory committee with the Bangko Sentral—is normally the most attractive to money launderers?

**Senator Magsaysay.** Are attractive to money launderers?

**Senator Osmeña III.** Yes, Mr. President.

**Senator Magsaysay.** We have a list, Mr. President. But while my staff is looking at...

**Senator Osmeña III.** I am not asking for the specific countries. I am asking for the...

**Senator Magsaysay.** These are countries that have a very weak reporting. So, with most of the countries already complying with having their own anti-money laundering laws, it might be now Indonesia, which has also complied in any way, or the Philippines.

**Senator Osmeña III.** But I am just talking about the situation obtaining in those countries. I understand it would be countries with lax regulations.

**Senator Magsaysay.** Yes, Mr. President.

**Senator Osmeña III.** With weak institutions, Mr. President.

**Senator Magsaysay.** That is correct, Mr. President.

**Senator Osmeña III.** And with an inability to enforce laws.

**Senator Magsaysay.** Yes, Mr. President.

As of July 15, 2000, just over a year ago, we have been there among the 15 countries that are considered, identified as non-cooperative. So, the gentleman might have an idea what countries are with the Philippines, as he mentioned as lax in banking regulations. These are the Bahamas, Cayman Islands, Cook

Islands, Lebanon, Liechtenstein, Marshall Islands, Nauru, Niue, Panama, Philippines, Russia, St. Kitts-Nevis, St. Vincent, and the Grenadines. These are the 15 countries, including Israel, at that time.

**Senator Osmeña III.** Mr. President, how many countries in the world have passed an anti-money laundering law?

**Senator Magsaysay.** Have passed?

**Senator Osmeña III.** Yes, have passed an anti-money laundering law.

**Senator Magsaysay.** Let me check with my staff, Mr. President.

**Senator Osmeña III.** Just give me a round number and the gentleman does not have to name every country.

**Senator Magsaysay.** From what I have read, it was hitting... They started as seven countries, the Group of Seven—FATF—and now there are 29 and I think that has been augmented by many more. In fact, Israel is no longer in the list as it was a year ago. So what is usually mentioned is it is the Philippines, Nauru has to amend its law, and maybe Russia has to amend its law.

So, these are the three countries that the FATF feels are worthwhile mentioning that must either amend their existing anti-money laundering law or have a new one, like in our case.

**Senator Osmeña III.** Mr. President, just for the record, the Group of Seven is now known as the "Group of Eight." Russia has been included for the past few years.

But, in any case, Mr. President, it seems to me that that list that the distinguished sponsor refers to is known as the Financial Action Task Force list on Non-Cooperative Countries and Territories or NCCT. Am I correct?

**Senator Magsaysay.** That is correct, Mr. President.

**Senator Osmeña III.** And because only 29 countries have passed an Anti-Money Laundering Law and the updated list of NCCTs is limited to 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21, including the Philippines, what about the rest of the countries? How are they categorized?

**Senator Magsaysay.** I am not sure how they can be categorized at this stage, Mr. President.

**The President.** With the permission of the gentlemen. I think what is indicated is that there was a review of the financial systems in these 21 or so countries and what was indicated was that the

systems in these countries, including the Philippines, unfortunately, make the system attractive for deposit of so-called "dirty monies." Presumably, the laws of the other countries not enumerated are sufficient to serve as a deterrence for money launderers.

**Senator Osmeña III.** Therefore, Mr. President, if the distinguished sponsor accepts that as an answer, then it is possible to meet the qualifications of the Financial Action Task Force on money laundering and it reports the recommendations, not necessarily by passing an anti-money-laundering law but by revising our banking systems, the rules and regulations, in order to meet the minimum requirement set forth by the Financial Action Task Force.

**Senator Magsaysay.** That is possible, Mr. President.

**Senator Osmeña III.** Thank you very much, Mr. President.

Now, I failed to see here a comparison on our proposed anti-money laundering law with the anti-money laundering laws that have been passed by those 29 countries. Did the staff ever do a comparison or a matrix?

**Senator Magsaysay.** I saw a matrix, I think, among the Asia Pacific countries.

**Senator Osmeña III.** And may we be favored with a copy of that matrix?

**Senator Magsaysay.** We have a matrix on Asia Pacific countries on their anti-money laundering measures.

**Senator Osmeña III.** If I might be favored with a copy thereof—

**Senator Magsaysay.** Yes, Mr. President.

**Senator Osmeña III.** —I would like the opportunity to study that.

Now, do we also have a matrix as to how our anti-money laundering bill will compare with the anti-money laundering statutes of the United States, the United Kingdom, Japan and Switzerland? Just those four countries.

**Senator Magsaysay.** We have this in the matrix which we will give to the gentleman, Mr. President.

**Senator Osmeña III.** I thought that was only for Asian countries.

**Senator Magsaysay.** This includes Australia, the United States.

**Senator Osmeña III.** UK.

**Senator Magsaysay.** Japan.

**Senator Osmeña III.** And Switzerland. I am particularly interested in Switzerland.

**Senator Magsaysay.** Switzerland is not here. But we can furnish this, Mr. President.

**Senator Osmeña III.** We would be happy if we could get a copy thereof as soon as that would impact on my future interpellations on this bill.

Now, just giving us... Off the top of the gentleman's head, Mr. President. Is our anti-money laundering law, the proposed law, the committee report, stronger or weaker than those existing in other Asian countries?

**Senator Magsaysay.** We gave a statement of policy that as long as we comply with what the FATF requires, this is good for us. I believe it is comparable with the other countries.

**Senator Osmeña III.** Do they use the same P1,000,000 or \$20,000 statutory...

**Senator Magsaysay.** Some even have a lower threshold. I think Hong Kong does not have any specific amount. I think the US provides US\$10,000. Singapore has no specific amount.

**Senator Osmeña III.** Does the gentleman's bill cover also a pattern or frequency of deposits?

**Senator Magsaysay.** No, it does not cover that. That is already the option of the bank to find out if there is such a pattern.

I think Senator Pangilinan wants to be recognized.

**Senator Pangilinan.** Mr. President.

**The President.** With the permission of the two gentlemen on the floor, Senator Pangilinan is recognized.

**Senator Pangilinan.** Just an additional input to the queries raised by Senator Osmeña regarding comparing our money laundering provisions relative to other countries.

If we are to compare it with the United States, Mr. President, the United States has a more expansive anti-money laundering law in that, for example, it includes every conceivable federal white-collar crime as far as unlawful activity is concerned.

With respect to access to bank records, it is also a little more... In fact, there is a term that they call... The Bank Secrecy Act is a misnomer with respect to the United States because it is not really about keeping confidential bank records but rather how records may be accessed, particularly by the bank. Precisely, "bank disclosure" is a more appropriate term which was told to us during our seminar there. So, at least with respect to the US jurisdiction, the provisions of its money laundering laws are more expansive than ours, as proposed.

**Senator Osmeña III.** Well, I have always admired the US for plugging its loopholes, Mr. President, and we are always in the process of keeping our loopholes open, so to speak. Of course, we know where the pressures are coming from.

Now, walk me through this, Mr. President. Let us say I were a drug dealer in Hong Kong and I instruct my bank to deposit P2 million and course it through a bank in the Philippines, let us say, Bank XYZ, and instruct Bank XYZ to remit it onwards to my bank account in Grand Cayman Islands. At what point then would Bank XYZ be asked to intervene? At the point of its receipt of a telegraphic transfer from the Hong Kong Bank, is that right?

**Senator Magsaysay.** This is the same name as the owner of the account in Hong Kong, the Philippine account, the XYZ Bank?

**Senator Osmeña III.** Probably, yes.

**Senator Magsaysay.** I guess if the account had very little money before, that could trigger a query. Is the gentleman saying that from here it will go to Cayman?

**Senator Osmeña III.** That is correct.

**Senator Magsaysay.** So, it is like from Hong Kong to Manila, Manila to Cayman?

**Senator Osmeña III.** Let us say Mr. Wong in Hong Kong also happens to have an account with-

**Senator Magsaysay.** XYZ Bank?

**Senator Osmeña III.** —Urban Bank in Manila. His level of deposits and level of withdrawals give him an average monthly balance of about \$5,000. He deposits \$30,000 through Hong Kong Shanghai Bank in Hong Kong, remits it to Urban Bank in Manila and instructs Urban Bank to remit it to J.P. Morgan Chase in New York for account of his Grand Cayman account. So, when the US\$30,000 comes in, Urban Bank now is required to flag it and to record it in a general ledger that is then forwarded to the Bangko Sentral or the Anti-Money Laundering Council at the end of five days or within five days, is that correct?

**Senator Magsaysay.** That is correct, the alarm is set off because this is way beyond the US\$5,000 average and this is over P1 million.

**Senator Osmeña III.** So, the branch manager of that particular Urban Bank branch in Manila where Mr. Wong has his account, is he not required to call up Mr. Wong first and ask him: "Mr. Wong, where did you get this money? It is a little bit larger than your normal deposit."

**Senator Magsaysay.** Yes. In fact, it is important that the Urban Bank, let us say, is going to ask such questions.

**Senator Osmeña III.** So, he is required to call up Mr. Wong?

**Senator Magsaysay.** I think so. This is information seeking because that threshold has been reached and bridged. And this is something that can excite some kind of suspicion.

**Senator Osmeña III.** But it is not required under the law that that bank officer be required to confirm, is it?

**Senator Magsaysay.** Senator Pangilinan?

**Senator Pangilinan.** Yes, if I may be allowed, Mr. President?

**Senator Osmeña III.** Certainly.

**The President.** Senator Pangilinan is recognized.

**Senator Pangilinan.** The law provides for instances wherein transactions are covered. In fact, there are three transactions covered—P1 million. I mean the bill, I am sorry, provides for this. One million pesos and above, that is a covered transaction. That is No. 1.

No. 2, transaction having no credible purpose or origin underlying trade obligation, contract or economic justification; or

No. 3, unusually complex or large transactions.

So, in that example given by Sen. Serge R. Osmeña III, we can probably say that hypothetically, it could fall under No. 2. And because the banks will be required to make reports, it may either, one, make a report that it is P1 million and above, or two, make a report that this looks like a suspicious activity.

Now, as to the question whether or not they are required to ask and make clarificatory questions with respect to their client, the answer, I believe, is yes. For them to be able to ferret out information as to whether or not the transaction is legitimate or illegitimate, the only way or one such way is to ask questions. However, if after questioning there is justification for the particular

transaction, then there is no requirement to make a report. But if, after initial queries, it seems like this is a suspicious activity, then the bank, under the law, will be required to make such report.

**Senator Osmeña III.** Mr. President, may I request the gentleman from Quezon City to cite the page in his sponsorship speech where those three categories are mentioned?

**Senator Pangilinan.** Mr. President, is Senator Osmeña asking about the speech or the law, I mean, the bill?

**Senator Magsaysay.** The law.

**Senator Osmeña III.** Well, the gentleman mentioned that there would be three kinds of covered transactions. Would that be in the proposed law?

**Senator Pangilinan.** That is in the proposed law, page 2, letter (d), line 1 up to line 12.

**The President.** What page?

**Senator Magsaysay.** Page 2.

**Senator Pangilinan.** "Covered Transaction." Line 1 up to line 12.

**The President.** All right.

**Senator Osmeña III.** Page 2, letter (d), line 1 to line 12. Now, it is a good thing the gentleman mentioned that, Mr. President. Let me get to No. 2 later, but let me go back to No. 1. Again, the banker, the branch manager is now required to call up the depositor in Hong Kong to inquire about the source of the money, of the \$30,000 deposit. Am I correct? Would that be...

**Senator Pangilinan.** That would probably fall under No. 2, Mr. President.

**Senator Osmeña III.** Why not under No. 1 where it is simpler?

**Senator Pangilinan.** I am sorry. That is correct, it can also fall under No. 1. That is correct.

**Senator Osmeña III.** Because No. 1 is statutory, whether or not it is legal or illegal, he has to call and get an explanation. All right. Let us say, Mr. Wong says, "Oh, I just inherited some money from a relative in Xiamen and I am sending it to the United States to probably buy a house later on." What is the bank officer supposed to do? Is he supposed to take that at face value?

**Senator Pangilinan.** For so long as the bank is not negligent in its efforts to identify—and there have been efforts made to identify the nature of the account or the nature of the transaction—and that after these questions have been clarified, and it feels that, in fact, it is a legitimate transaction, then the bank will be free of any liability because it did so in good faith and without any negligence.

**Senator Osmeña III.** All right. Now that is only \$30,000. And of course, I do not think we should expect the bank manager to flag every \$30,000 deposit, because he will go crazy calling up clients all over the Philippines and Asia, trying to ask a question to which he will just be given a peremptory answer, and which he will not be interested in pursuing because of the small amount involved. So, therefore, that \$20,000 or \$30,000 is not really that important. It goes out the window. Am I correct?

What I am trying to point out is that there have been concerns over the low level of that P1 million limit. But it is my feeling that the P1 million limit is only there if it is part of a series of multiple transactions. I do not think any banker, for the salt, is going to call up any...

**Senator Magsaysay.** May I interject, Mr. President. The example of the senator from Cebu and Panay is an example which can trigger suspicion, because the remittance coming from Hong Kong goes to the Philippines and is remitted to the US. That kind of transaction in itself is going to... Not only because of the level of the \$30,000 which is over a million pesos, but also, why does it have to come to the Philippines? So, that is one alarm.

And second, rather than going direct to the US bank, it comes to Manila and gets a charge of maybe \$30 and goes to the US and gets another charge of \$30. So, there is some kind of laundering going on with this kind of roundabout of going to the final destination. So, I would think that if I were a bank teller, a manager or a supervisor, I would get to the more prudent decision and report and let the council decide on what to do with it.

**Senator Osmeña III.** Well, I am very glad...

**Senator Magsaysay.** So, there is a threshold. There is a very difficult issue to explain why it is going roundabout. And to protect my bank and myself I will report because, to me, it is a suspicious movement of over P1 million.

**The President.** May the Chair ask a few questions on that point, with the permission of Senator Osmeña?

If, after inquiries by the bank officer, there is suspicion that indeed these are proceeds of illegal activities, can the bank manager in that situation reject the proposed deposit?

**Senator Magsaysay.** The bill is silent on that, Mr. President, because the function of the council is merely to get information and to investigate.

**The President.** I am referring to the bank manager in the example of Senator Osmeña. Supposing after queries made, the bank manager is convinced that indeed the amounts of the deposits remitted to the Philippine bank are, in fact, proceeds of illegal activities, can the bank manager reject the deposit and return it to the origin?

**Senator Magsaysay.** He may reject but it will depend on the process of the council and the Monetary Board. But he may reject it.

**The President.** In this particular case, the council or the board is not yet involved. In the example given, the depositor remits what is suspected to be a proceed of an illegal activity and, therefore, he may get rid of that deposit by rejecting or returning the deposit. Is that feasible? I suppose it is.

**Senator Magsaysay.** That is feasible, yes, Mr. President.

**The President.** Now, the question is: Does the bank officer incur any liability, vis-a-vis the law having knowledge of or having suspected that the banking system is being sought as a haven for the proceeds of an illegal activity, if he rejects him with the deposit?

**Senator Magsaysay.** The bank officer will only have a liability if he does not report that suspicious movement of funds.

**The President.** But if he rejects--

**Senator Pangilinan.** Mr. President.

**The President.** —and reports, anyway the money is no longer there.

**Senator Pangilinan.** If I may be allowed, Mr. President.

**The President.** Yes. I just asked this question for the record.

**Senator Pangilinan.** My own understanding is, if he rejects it, then he has been able to prevent his institution from being used as an instrument of money laundering. And, therefore, that is precisely one such possible consequence of the bill if passed into law. The banks will now be more discerning with respect to the monies that come in and out and, therefore, the rejection may be a policy of sound business management on their part, precisely because to accept it could mean criminal liability.



**The President.** Now, could Mr. Wong be prosecuted in that example? Can he be prosecuted for violating the Anti-Money Laundering Law in the Philippines?

**Senator Pangilinan.** My understanding with that example, Mr. President, is that, having rejected it, money laundering did not occur and therefore, Mr. Wong will not be prosecuted here.

**The President.** But in the example of Senator Osmeña, the money was actually remitted to Philippine shores and therefore, there was a deposit.

**Senator Pangilinan.** That is correct. In this respect, if the deposit was made, then the banks, under the bill as proposed, will be required to make a report. And in this case, the example of Senator Osmeña is that it came from Hong Kong, went to the Philippines, to be transferred to Cayman Islands, that could actually fall under an unusually complex transaction which is number three of the proposed bill.

**The President.** The question that the Chair raised was: Can Mr. Wong now be prosecuted for violation of the anti-money laundering bill if it becomes law? Will there be a warrant of arrest served when he reaches Philippine shores?

**Senator Magsaysay.** For that matter, Mr. President, the fact that there is an information-sharing, the Philippine bank may inform the Hong Kong Council or task force at that end, and the information can trigger a case.

**The President.** Thank you, gentlemen.

**Senator Pangilinan.** Mr. President.

**The President.** Yes, Senator Pangilinan.

**Senator Pangilinan.** Mr. President, Section 4, letter (a) penalizes the attempt to conduct any transaction involving monetary instruments derived from unlawful activities. The answer to the Chair's question, therefore, would be yes. Mr. Wong can be prosecuted because he attempted to conduct a transaction.

**The President.** Thank you.

#### SUSPENSION OF SESSION

**Senator Magsaysay.** May I ask a one-minute suspension of the session, Mr. President.

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

*It was 6:48 p.m.*

#### RESUMPTION OF SESSION

*At 6:52 p.m., the session was resumed.*

**The President.** The session is resumed.

**Senator Legarda Leviste.** Mr. President, I move that we suspend the period of interpellations on Senate Bill No. 1745 under Committee Report No. 1.

**The President.** There is a motion to suspend the period of interpellations on Senate Bill No. 1745. Is there any objection? *[Silence]* There being none, the motion is approved.

#### SUSPENSION OF CONSIDERATION OF S. NO. 1745

**Senator Legarda Leviste.** Mr. President, I also move that we suspend consideration of Senate Bill No. 1745.

**The President.** Is there any objection? *[Silence]* There being none, consideration of Senate Bill No. 1745 is hereby suspended.

#### ADJOURNMENT OF SESSION

**Senator Legarda Leviste.** There being no other business, Mr. President, I move that we adjourn today's session until three o'clock tomorrow afternoon, Tuesday, September 25, 2001.

**The President.** Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock tomorrow afternoon, September 25, 2001.

*It was 6:53 p.m.*