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CONGRESS OF THE PHILIPPINES
Senate

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RECORD OF THE SENATE

WEDNESDAY, AUGUST 2, 1995

RESUMPTION OF THE SESSION

At 3:19 p.m., the session was resumed with the Honorable Edgardo J. Angara, President of the Senate, presiding.

The President: The session is resumed.

Senator Romulo: Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: With the permission of our Colleagues, may I ask the Secretary to read the Second Additional Reference of Business.

The President: The Secretary will do so.

SECOND ADDITIONAL REFERENCE OF BUSINESS

RESOLUTIONS

The Secretary: Proposed Senate Resolution No. 3, entitled

RESOLUTION URGING THE OFFICE OF THE PRESIDENT TO DIRECT THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION TO ALLOCATE THE SUM OF FIFTY MILLION PESOS (P50 M) IN FAVOR OF THE PHILIPPINE TEACHERS MEDICAL FOUNDATION, INC. TO ASSIST IN THE ESTABLISHMENT OF HEALTH CARE FACILITIES FOR THE PUBLIC SCHOOL TEACHERS.

Introduced by Senator Macapagal.

The President: Referred to the Committees on Government Corporations and Public Enterprises; Games and Amusement; and Finance.

The Secretary: Proposed Senate Resolution No. 4, entitled

RESOLUTION DIRECTING THE COMMITTEE ON WAYS AND MEANS AND THE COMMITTEE ON TRADE AND COMMERCE TO CONDUCT A JOINT INQUIRY, IN AID OF LEGISLATION, INTO THE REPORTED PRESIDENTIAL MEMORANDUM ORDER GRANTING SPECIAL TAX INCENTIVES TO CHRYSLER CORPORATION AMIDST STRONG DEMAND FROM OTHER CAR MANUFACTURERS AND

ASSEMBLERS FOR EQUAL AND UNIFORM TREATMENT, WITH THE END IN VIEW OF RECOMMENDING SUCH APPROPRIATE LEGISLATIVE ACTIONS AS MAY BE NECESSARY TO PROTECT THE AUTOMOTIVE MANUFACTURING INDUSTRY IN THE COUNTRY AND TO COUNTERCHECK ANY MISUSE OF EXECUTIVE POWERS.

Introduced by Senator Maceda.

The President: Referred to the Committees on Ways and Means; Trade and Commerce; and Economic Affairs.

The Secretary: Proposed Senate Resolution No. 5, entitled

RESOLUTION DIRECTING THE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS (BLUE RIBBON) TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE REPORTED ANOMALOUS CONTRACT BETWEEN THE DPWH REGION V, REPRESENTED BY MR. BOANERGES A. RELATIVO, DIRECTOR III, AND GUIDED STAR CONSTRUCTION, REPRESENTED BY MR. BENJAMIN Y. CONCEPCION, INVOLVING AN AMOUNT OF P81.5 MILLION FOR THE REPAIR AND IMPROVEMENT OF THE SAN SEBASTIAN SEAWALL IN LAGONOY, CAMARINES SUR WITH A LENGTH OF ONLY 437.5 KILOMETERS, OR AT A COST OF ALMOST P20,000 PER LINEAR METER, IN APPARENT VIOLATION OF THE ANTI-GRAFT AND CORRUPT PRACTICES ACT AND THE OMNIBUS ELECTION CODE, FOR THE PURPOSE OF RECOMMENDING REMEDIAL AND/OR NEW LEGISLATIVE MEASURES AND FOR OTHER LEGISLATIVE PURPOSES.

Introduced by Senator Maceda.

The President: Referred to the Committee on Accountability of Public Officers and Investigations.

The Secretary: Proposed Senate Resolution No. 6, entitled

RESOLUTION URGING THE SENATE TO RATIFY CONVENTION NO. 155-CONVENTION CONCERNING OCCUPATIONAL SAFETY AND HEALTH AND THE WORKING ENVIRONMENT, OTHERWISE KNOWN AS THE

DELINEATING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES.

Introduced by Senator Macapagal.

The Presiding Officer [Senator Romulo]: Referred to the Committees on Trade and Commerce; and Finance.

The Secretary: Senate Bill No. 339, entitled

AN ACT RATIONALIZING THE IMPORTATION OF SUGAR IN ANY FORM, AND FOR OTHER PURPOSES.

Introduced by Senator Macapagal.

The Presiding Officer [Senator Romulo]: Referred to the Committee on Agriculture and Food.

The Secretary: Senate Bill No. 340, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES.

Introduced by Senator Macapagal.

The Presiding Officer [Senator Romulo]: Referred to the Committee on Economic Affairs.

The Secretary: Senate Bill No. 341, entitled

AN ACT REVISING AND CONSOLIDATING ALL LAWS AFFECTING FISHERIES, INSTITUTING THE PHILIPPINE FISHERIES CODE, AUTHORIZING APPROPRIATIONS THEREFOR, AND FOR OTHER PURPOSES.

Introduced by Senator Macapagal.

The Presiding Officer [Senator Romulo]: Referred to the Committees on Agriculture and Food; Constitutional Amendments, Revision of Codes and Laws; and Finance.

The Secretary: Senate Bill No. 342, entitled

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT 7202, OTHERWISE KNOWN AS THE SUGAR RESTITUTION LAW, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

Introduced by Senator Macapagal.

The Presiding Officer [Senator Romulo]: Referred to the Committee on Banks, Financial Institutions and Currencies.

The Secretary: Senate Bill No. 343, entitled

AN ACT CREATING THE COMMISSION ON INDIGENOUS CULTURAL COMMUNITIES AND ANCESTRAL DOMAINS, DEFINING ITS POWERS AND FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR.

Introduced by Senator Macapagal.

The Presiding Officer [Senator Romulo]: Referred to the Committees on Cultural Communities; and Finance.

The Secretary: Senate Bill No. 344, entitled

AN ACT DEREGULATING CERTAIN PUBLIC UTILITIES, AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, AS AMENDED, AND FOR OTHER PURPOSES.

Introduced by Senator Macapagal.

The Presiding Officer [Senator Romulo]: Referred to the Committee on Public Services.

The Secretary: Senate Bill No. 345, entitled

AN ACT TO PROMOTE THE DEVELOPMENT OF THE INTERISLAND SHIPPING INDUSTRY.

Introduced by Senator Macapagal.

The Presiding Officer [Senator Romulo]: Referred to the Committee on Public Services; and Ways and Means.

The Secretary: Senate Bill No. 346, entitled

AN ACT AMENDING CERTAIN SECTIONS OF PRESIDENTIAL DECREE NO. 1645, ENTITLED "AN ACT AMENDING PRESIDENTIAL DECREE NO. 269, INCREASING THE CAPITALIZATION AND BROADENING THE LENDING AND REGULATORY POWERS OF THE NATIONAL ELECTRIFICATION ADMINISTRATION," AND FOR OTHER PURPOSES.

Introduced by Senator Macapagal.

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RECORD OF THE SENATE

WEDNESDAY, FEBRUARY 14, 1996

OPENING OF THE SESSION

At 4:21 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 56th session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

We shall be led in prayer by Sen. Orlando S. Mercado.

Everybody rose for the opening prayer.

PRAYER

Senator Mercado.

Lord, today is Senator Johnny Ponce Enrile's birthday and it is the wedding anniversary of Senator and Mrs. Flavier, and it is Valentine's Day, a day in which lovers both tired and untiring exchange affectionate messages and gifts. It is said that the sending of love notes started in the Middle Ages and appears to be connected to the belief that birds begin to mate on this date.

Against this backdrop, dear Lord, most of us have forgotten the real reasons why today is Valentine's day. On this day, a Valentine of Rome, a priest, was martyred in the year 269 during the persecution ordered by Claudius the Goth. A second martyr named Valentine was the Bishop of Terni who also died on this day.

Lord, the religious significance has now been overshadowed by the nonreligious customs. Commercialism has taken over this day. Lord, allow us to remember these two martyrs, two men who showed a less romantic but more meaningful love.

Love for their fellowmen and love for You, dear Lord, our God of Love.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

- Senator Heherson T. Alvarez Present*
Senator Edgardo J. Angara Present*
Senator Anna Dominique M.L. Coseteng . Present*

- Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Present
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople **
Senator Sergio R. Osmeña III Present*
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present*
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Absent
Senator Leticia R. Shahani Present*
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present*
Senator Freddie N. Webb Present
The President Present

The President. With 15 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection? [Silence] There being none, the Journal of the previous session is hereby approved.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, as our Colleague, Senator Mercado, said in his prayer, two of our Colleagues are celebrating today: our distinguished Colleague from Cagayan, Senator Enrile, his birthday; and our Colleague from Baguio City and the Cordilleras, his wedding anniversary.

So that we can greet them properly, may I ask for a suspension of the session, Mr. President.

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

It was 4:25 p.m.

*Arrived after the roll call
** On official mission

IN AID OF LEGISLATION, INTO THE CAUSE OF THE LANDSLIDE AND FLOODING IN THE BACON AND MANITO AREAS IN SORSOGON AND TO RECOMMEND THE APPROPRIATE LEGISLATION THEREFOR

Introduced by Senator Macapagal.

The President. Referred to the Committees on Environment and Natural Resources; and Energy.

The Secretary. Proposed Senate Resolution No. 304, entitled

RESOLUTION URGING THE COMMITTEES ON CULTURAL COMMUNITIES; ENVIRONMENT AND NATURAL RESOURCES; YOUTH AND SPORTS DEVELOPMENT; AND EDUCATION, ARTS AND CULTURE TO TAKE COGNIZANCE OF THE GLOBAL INDIGENOUS CULTURAL OLYMPICS/SUMMIT AND ITS DELIBERATIONS, TO PARTICIPATE WITH OBSERVERS/REPRESENTATIVES IN THE CONFERENCE TO BE HELD IN MANILA FROM FEBRUARY 24 TO MARCH 3, 1996 FOR THE OBSERVANCE OF THE DECADE FOR FILIPINO INDIGENOUS PEOPLES AS MANDATED BY A.O. NO. 206 AND TO BRING, WHEN FEASIBLE, THE CONCEPTS AND IDEAS IN THE CONFERENCE FOR THE CONSIDERATION OF THEIR RESPECTIVE COMMITTEES AND THE SENATE

Introduced by Senators Alvarez, Flavio, Magsaysay Jr., Roco and Shahani.

The President. Referred to the Committees on Cultural Communities; and Youth and Sports Development.

COMMITTEE REPORTS

The Secretary. Committee Report No. 49, prepared and submitted by the Committee on Economic Affairs on Senate Bill No. 1399, with Senators Macapagal, Drilon, Magsaysay Jr., and the members of the Committee as authors thereof, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos.

340 and 855.

Sponsors: Senator Magsaysay Jr., and the members of the Committee on Economic Affairs

The President. To the Calendar for Ordinary Business.

The Secretary. Committee Report No. 50, submitted by the Committee on Economic Affairs on Senate Bill No. 1283, introduced by Senators Shahani and Magsaysay Jr., entitled

AN ACT TO STRENGTHEN THE PROMOTION, DEVELOPMENT AND ASSISTANCE TO SMALL AND MEDIUM SCALE ENTERPRISES, AMENDING FOR THAT PURPOSE REPUBLIC ACT NO. 6977, OTHERWISE KNOWN AS THE "MAGNA CARTA FOR SMALL ENTERPRISES, AND FOR OTHER PURPOSES,"

recommending its approval with amendments.

Sponsors: Senators Shahani and Magsaysay Jr.

The President. To the Calendar for Ordinary Business.

The Secretary. Committee Report No. 51, submitted by the Committee on Finance on Senate Bill No. 1316, introduced by Senators Mercado and Romulo, entitled

AN ACT PRESCRIBING OFFICER GRADE DISTRIBUTION IN THE ACTIVE FORCE OF THE ARMED FORCES OF THE PHILIPPINES AND LIMITING THE TENURE OF OFFICERS IN THE GRADES OF COLONEL/CAPTAIN (PN) AND GENERAL/FLAG OFFICERS IN THE AFP,

recommending its approval with amendments.

Sponsors: Senators Mercado and Romulo

The President. To the Calendar for Ordinary Business.

The Majority Leader is recognized.

SPECIAL ORDERS

Senator Romulo. Mr. President, I move that the following Senate bills, with their committee reports, be transferred from the Calendar for Ordinary Business to the Calendar for Special Orders: Senate Bill No. 1399 under Committee Report No. 49, liberalizing foreign investments; Senate Bill No. 1283 under Committee Report No. 50, promotion, development and

RECORD OF THE SENATE

THURSDAY, FEBRUARY 15, 1996

RESUMPTION OF THE SESSION

At 10:37 a.m., the session was resumed with the Senate President, Hon. Neptali A. Gonzales, presiding.

The President. The session is resumed. The Secretary will please read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

February 12, 1996

Mr. President:

I have been directed to inform the Senate that the House of Representatives on February 8, 1996 designated Congressman Renato V. Diaz and Congressman Junie E. Cua as members of the Conference Committee on the part of the House on the disagreeing provisions of House Bill No. 5264, entitled

AN ACT DEREGULATING THE DOWNSTREAM OIL INDUSTRY, AND FOR OTHER PURPOSES

and Senate Bill No. 1253, entitled

AN ACT DEREGULATING THE DOWNSTREAM OIL INDUSTRY PURSUANT TO REPUBLIC ACT NUMBERED SEVENTY-SIX HUNDRED AND THIRTY-EIGHT, AND FOR OTHER PURPOSES.

Very truly yours,

(Sgd.) CAMILO L. SABIO
Secretary General

The President. Referred to the Committee on Rules.

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1401, entitled

AN ACT ESTABLISHING A LEGAL RESEARCH

UNIT IN EACH OF THE FIVE (5) DIVISIONS OF THE NATIONAL LABOR RELATIONS COMMISSION, AMENDING FOR THIS PURPOSE ARTICLE 213 OF THE LABOR CODE OF THE PHILIPPINES

Introduced by Senator Herrera.

The President. Referred to the Committees on Labor, Employment and Human Resources Development; and Finance.

The Secretary. Senate Bill No. 1402, entitled

AN ACT AMENDING EXECUTIVE ORDER 292, OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987, BY GRANTING THE PHILIPPINE MILITARY ACADEMY (PMA) THE POWER TO CONFER MASTERAL DEGREES UPON OFFICERS OF THE ARMED FORCES OF THE PHILIPPINES (AFP)

Introduced by Senator Drilon.

The President. Referred to the Committee on National Defense and Security.

RESOLUTION

The Secretary. Proposed Senate Resolution No. 305, entitled

RESOLUTION INQUIRING, IN AID OF LEGISLATION, INTO THE PRECAUTIONS OR SAFETY MEASURES TAKEN BY THE AUTHORITIES CONCERNED TO INSURE THAT THE BUSINESS OF TATTOOING SHALL NOT PREJUDICE PUBLIC HEALTH

Introduced by Senator Webb.

The President. Referred to the Committee on Health and Demography.

COMMITTEE REPORT

The Secretary. Committee Report No. 52, prepared and submitted by the Committee on Justice and Human Rights on Senate Bill No. 1400, with Senators Fernan, Gonzales, Roco, and the members of the Committee as authors thereof, entitled

AN ACT INCREASING THE NUMBER OF JUSTICES IN THE COURT OF APPEALS FROM FIFTY-ONE (51) TO SIXTY-THREE (63) AND THE NUMBER OF DIVISIONS THEREOF, FROM SEVENTEEN (17) TO TWENTY-ONE (21), AMENDING FOR THE PURPOSE BATA PAMBANSA BILANG 129, AS AMENDED, OTHERWISE KNOWN AS "THE JUDICIARY REORGANIZATION ACT OF 1980", AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES,

recommending its approval without amendments in consolidation and substitution of Senate Bill Nos. 939 and 1307.

Sponsors: Senators Roco, Gonzales, Fernan, and the members of the Committee on Justice and Human Rights

The President. To the Calendar for Ordinary Business.

The Majority Leader is recognized.

Senator Romulo. Mr. President, among the other bills in the Calendar for Special Orders that we shall take up today as we have announced are Senate Bill No. 1399, Liberalizing Foreign Investments, amending for the purpose Republic Act No. 7042; and also Proposed Senate Resolution No. 225, the ratification of the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

BILL ON SECOND READING

S. No. 1399—Liberalizing Foreign Investments

Senator Romulo. Mr. President, I move that we consider Senate Bill No. 1399 as reported out under Committee Report No. 49.

The President. Consideration of Senate Bill No. 1399 is now in order.

With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1399, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES

The following is the full text of the Senate Bill No. 1399:

SENATE BILL NO. 1399

(In substitution of S. Nos. 340 and 855)

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES

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

SECTION 1. Section 3, paragraph (a), of Republic Act No. 7042, otherwise known as the "Foreign Investments Act of 1991," is hereby amended to read as follows:

"Sec. 3. Definitions. - as used in this Act:

a) the term 'Philippine National' shall [mean] INCLUDE:

(1) A citizen of the Philippines;

(2) A NATURAL-BORN FILIPINO WHO HAD LOST HIS PHILIPPINE CITIZENSHIP BY ACQUISITION OF ANOTHER CITIZENSHIP: PROVIDED, THAT IN ECONOMIC ACTIVITIES RESERVED BY THE CONSTITUTION, IN WHOLE OR IN PART, FOR PHILIPPINE CITIZENS HE SHALL NOT BE CONSIDERED A PHILIPPINE NATIONAL [OR];

(3) A domestic partnership or corporation wholly owned by [citizens of the Philippines] PHILIPPINE NATIONALS: PROVIDED, THAT A PARTNERSHIP FORMED FOR THE EXERCISE OF A COMMON PROFESSION SHALL BE WHOLLY OWNED BY CITIZENS OF THE PHILIPPINES IN ORDER TO BE CONSIDERED A PHILIPPINE NATIONAL [or];

(4) A corporation organized under the laws of the Philippines of which at least sixty percent (60%) of the capital stock outstanding and entitled to vote is owned and held by [citizens of the Philippines] PHILIPPINE NATIONALS: PROVIDED, That where a corporation and its NON-PHILIPPINE NATIONAL stockholders own

stocks in Securities and Exchange Commission (SEC) registered enterprise, at least sixty percent (60%) of the capital stocks outstanding and entitled to vote of both corporation must be owned and held by [citizens of the Philippines] PHILIPPINE NATIONALS and at least sixty percent (60%) of the members of the Board of Directors of EACH OF both corporations must be [citizens of the Philippines] PHILIPPINE NATIONALS, in order that the corporation shall be considered a Philippine national; AND

(5) A trustee of funds for pension or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty percent (60%) of the fund will accrue to the benefit of Philippine nationals."

SEC. 2. Section 7 of Republic Act No. 7042 is hereby amended to read as follows:

"Sec. 7. Foreign Investments in Domestic Market Enterprises. - Non-Philippine nationals may own up to one hundred percent (100%) of domestic market enterprises unless foreign ownership therein is prohibited or limited by existing law of the Foreign Investment Negative List under Section 8, hereof.

[A domestic market enterprise may change its status to export enterprise if over a three (3) year period it consistently exports in each year thereof sixty percent (60%) or more of its output.]"

SEC. 3. Section 8 of the Foreign Investments Act of 1991 is hereby amended to read as follows:

"Sec. 8. List of Investment Areas Reserved to Philippine Nationals (Foreign Investment Negative List). The Foreign Investment Negative List shall have three (3) component lists: A, B, and C.

- a) List A shall enumerate the areas of activities reserved to Philippine nationals by mandate of the Constitution and specific laws.
- b) List B shall contain the areas of activities and enterprises regulated pursuant to law:

1) which are defense-related activities requiring prior clearance and authorization from Department of National Defense (DND) to engage in such activity, such as the manufacture,

repair, storage and/or distribution of firearms, ammunition, lethal weapons, military ordnance, explosives, pyrotechnics and similar materials; unless such manufacturing or repair activity is specifically authorized, with a substantial export component, to a non-Philippine national by the Secretary of National Defense; or

2) which have implications on public health and morals, such as the manufacture and distribution of dangerous drugs; all forms of gambling; nightclubs, bars, beer houses, dance halls; sauna and steam bathhouses and massage clinics.

"Small and medium-sized domestic market enterprises, with paid-in equity capital less than the equivalent of [ONE] TWO [five] hundred [FIFTY] thousand US dollars [(US\$150,000.00)] (\$200,000.00) [(US\$500,000.00)] are reserved to Philippine nationals, unless they involve advanced technology as (1) determined by the Department of Science and Technology; OR (2) ARE LISTED UNDER A PIONEER STATUS IN THE CURRENT INVESTMENT PRIORITIES PLAN PROMULGATED IN ACCORDANCE WITH THE PROVISIONS OF EXECUTIVE ORDER NO. 226. Export enterprises which utilize raw materials from depleting natural resources, with paid-in equity capital of less than the equivalent of [ONE] TWO [five] hundred [FIFTY] thousand US dollars [(US\$150,000.00)] (\$200,000.00) [(US\$500,000.00)] are likewise reserved to Philippine nationals.

"Amendments to List B may be made upon recommendation of the Secretary of National Defense, or the Secretary of Health, or the Secretary of Education, Culture and Sports, endorsed by the NEDA, or upon recommendation *motu proprio* of NEDA, approved by the President, and promulgated by Presidential Proclamation.

- c) List C shall contain the areas of investment in which existing enterprises already serve adequately the needs of the economy and the consumer and do not require further foreign investments, as determined by NEDA applying the criteria provided in Section 9 of this Act, approved by the President and promulgated in a Presidential Proclamation.

"The Transitory Foreign Investment Negative List established in Sec. 15 hereof shall be replaced at the end of the transitory period by the first Regular Negative

List to be formulated and recommended by NEDA, following the process and criteria provided in [Sections] SECTION 8 [and 9] of this Act. The first Regular Negative List shall be published not later than sixty (60) days before the end of the transitory period provided in said section, and shall become immediately effective at the end of the transitory period. Subsequent Foreign Investment Negative Lists shall become effective fifteen (15) days after publication in [A NEWSPAPER] two (2) newspapers of general circulation in the Philippines: *Provided, however,* That each Foreign Investment Negative List shall be prospective in operation and shall in no way affect foreign investments existing on the date of its publication.

"Amendments to Lists B and C after promulgation and publication of the first Regular Foreign Investment Negative List at the end of the transitory period shall not be made often than once every two (2) years."

SEC. 4. Sec. [9 and] 10 of Republic Act No. 7042 and all references thereto in said law are hereby repealed or modified accordingly. All other laws, rules, regulations and/or parts thereof repealed or modified accordingly.

SEC. 5. Sec. 15 of Republic Act No. 7042 is hereby amended to read as follows:

"Sec. 15. Transitory Provisions. - Prior to effectivity of the implementing rules and regulations of this Act, the provisions of Book II of Executive Order 226 and its implementing rules and regulations shall remain in force.

During the initial transitory period of thirty-six (36) months after issuance of the Rules and Regulations to implement this Act, AS AMENDED HEREBY, the Transitory Foreign Investment Negative List shall consist of the following:

A. LIST A:

1. All areas of investment in which foreign ownership is limited by mandate of Constitution and specific laws.

B. LIST B:

1. Manufacture, repair, storage and/or distribution of firearms, ammunition, lethal weapons, military ordnance, explosives, pyrotechnics and similar materials

required by law to be licensed by and under the continuing regulation of the Department of National Defense; unless such manufacturing or repair activity is specifically authorized, with a substantial export component, to a non-Philippine national by the Secretary of National Defense;

2. Manufacture and distribution of dangerous drugs; all forms of gambling; nightclubs, bars, beerhouses, dance halls, sauna and steam bath houses, massage clinics and other like activities regulated by law because of risks they may pose to public health and morals;

3. Small and medium-sized domestic market enterprises with paid-in equity capital of less than the equivalent of [(US\$150,000.00)], US\$200,000.00 [(US\$500,000.00)], unless they involve advanced technology as (1) determined by the Department of Science and Technology; OR (2) ARE LISTED UNDER A PIONEER STATUS IN THE CURRENT INVESTMENT PRIORITIES PLAN PROMULGATED UNDER EXECUTIVE ORDER NO. 226; and

4. Export enterprises which utilize raw materials from depleting natural resources, and with paid-in equity capital of less than equivalent of [\$150,000.00] US\$200,000.00 [US\$500,000.00].

C. LIST C:

1. Import and wholesale activities not integrated with production or manufacture of goods;

2. Services requiring a license or specific authorization, and subject to continuing regulation by national government agencies other than BOI and SEC which at the time of effectivity of this Act are restricted to Philippine nationals and practice of the regulatory agencies concerned: *Provided,* That after effectivity of this Act, no other services shall be additionally subjected to such restrictions on nationality of ownership by the corresponding regulatory agencies, and such restrictions once removed shall not be reimposed; and

3. Enterprises owned in the majority by a foreign licensor and/or its affiliates for the assembly, processing or manufacture of goods for the domestic market which are being produced by a Philippine national as of the date of effectivity of this Act under a technology, know-how and/or brand name license from such licensor during the term of the license agreement: *Provided,*

That the license is duly registered with the Central Bank and/or the Technology Transfer Board and is operatively in force as of the date of effectivity of this Act.

"NEDA shall make the enumeration as appropriate of the areas of investment covered in this Transitory Foreign Investment Negative List and publish the negative List in full at the same time as, or prior to, the publication of the rules and regulations to implement this Act.

"The areas of investment contained in List C above shall be reserved to Philippine nationals only during the transitory period. The inclusion of any of them in the regular Negative List will require determination by NEDA after due public hearings that such inclusion is warranted under the criteria set forth in Section 8 [and 9] hereof."

SEC. 6. If any part or section of this Act is declared unconstitutional for any reason whatsoever, such declaration shall not in any way affect the other parts or sections of this Act.

SEC. 7. This Act shall take effect fifteen (15) days after publication in [a newspaper] TWO (2) NEWSPAPERS of general circulation in the Philippines.

Senator Romulo. Mr. President, to sponsor this bill, I ask that the Chairman of the Committee on Economic Affairs, Senator Magsaysay Jr., be recognized.

The President. For the sponsorship of Senate Bill No. 1399, Senator Magsaysay Jr. is recognized.

SPONSORSHIP SPEECH OF SENATOR MAGSAYSAY

Senator Magsaysay. Thank you, Mr. President.

Mr. President, the title of my sponsorship speech is "Hail the Economy: The Great Filipino Dream."

As Chairman of the Senate Committee on Economic Affairs, allow me to thank this honorable Body, especially my esteemed Colleague, the Majority Leader, for prioritizing this legislation for deliberation and allowing me to address this Chamber this morning.

Almost two millennia had passed, but the memories of success of the Manila-Acapulco Trade, or the so-called Galleon

Trade in Philippine history, still linger. And why not? It was the very first recorded triumphant economic contact of the country with the rest of the world. From then and through the years, it is our yearning to continuously communicate with the vastness of wealth of the other economies. For Mother Philippines, international trade is a sign of hope to realize her elusive dream of making it big and global.

Recent events are turning well, both for Asia and the Philippines. To quote from the *Time Magazine* one fitting commentary on the resurgence of dominance of the Asian economy and the magnitude of economic strides that the Philippines has gained in recent years:

...certainly, one might pause at, but not dispute, the claim that the economic transformation of the Philippines and the rest of Asia is the greatest and the most thrilling event of the last half of the century.

The entire Asian economic miracle is unraveling. The Philippines' upward economic change is likewise unfolding, with the introduction of innovative approaches and the passage of new policy orders. One of these is the enactment of Republic Act No. 7042, otherwise known as the Foreign Investments Act (FIA). It will be recalled that in 1991, the passage of the law was hailed by government and the business community citing that it will pave the way for the Philippines becoming the new dragon emerging in Asia.

True to expectations, the Board of Investments reported that investments in the country showed a renewed confidence of foreign investors after the law was passed: For the years 1993-94, a 403 percent or more than four times jump in foreign equity investments of BOI-approved projects was realized when the actual figures rose from P14.414 billion in 1993 to P97.781 billion in 1994. The trend continued with the period covering the first semester of 1994 to 1995, which showed a remarkable 53.08 percent increase in investment over that of the previous year. Indeed, the Philippines is moving in an era of economic advancement.

But while the FIA provided a conducive environment for economic greatness, further improvement in policy on matters of liberalization of trade and redefinition of some terms would create an even more impressive ambience for more foreign investments inflow.

It is my earnest belief that it is high time we amended some provisions of the law and to heed the prospect of having a more effective policy guidelines for foreign investors. And true to say, the technocrats of the bureaucracy, the premier economists of the land, the brilliant names in the private sector all supported

the legislation.

It is my honor, therefore, to present to this Body the salient features of the legislative report on the amendments to the Foreign Investment Act, as follows:

A provision that we extracted from the bill of Senator Drilon.

I. The redefinition of the term "Philippine national."

The bill will allow natural-born Filipinos who had lost Philippine citizenship to invest in nationalized activities in the country, except in the economic activities reserved by the Constitution, in whole or in part, to citizens of the Philippines. The redefinition of the term would open up certain investment areas to the business knowledge and financial resources of former Philippine natural-born citizens creating thereby an additional source of capital, investments and knowledge, allowing further spur to the continued growth of the Philippine economy similar to the triumphs of the economies of Taiwan and Israel.

II. The removal of the 3-year requirement for an existing domestic market enterprise to change its status to an export enterprise.

The justification is: This 3-year requirement is a very stringent condition. Furthermore, the domestic enterprise should no longer be made to wait for three years to change its status and maintain the required Filipino percentage during the said period. The truth is that an applicant for registration as an export enterprise which is newly organized or registered as a corporation is only required to make a commitment to export at least 60 percent of its manufactured products.

III. The setting of the minimum paid-in equity requirement of at least \$200,000.00 for foreign-owned domestic market-oriented firms and export enterprises.

I wish to assure this Body that this amount is a compromise figure sufficiently protecting small and medium-scale enterprises.

IV. The retention of the Negative List C.

I strongly believe that the retention will give the government flexibility and strong protection to Filipino domestic enterprises. Furthermore, the retention of the list is consistent with our adherence to promote the welfare of the small and medium-scale entrepreneurs who constitute the bulk of our industry.

With the sponsorship of this measure, it is my vision that our improving economy girds a white knight in the midst of advancing economies. As they say it in economics—in *ceteris paribus*—the Philippine economy is rising, and through this bill, may the great Filipino dream of prosperity be achieved.

Thank you, Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1399

Senator Romulo. I move that we suspend consideration of Senate Bill No. 1399 until Monday.

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

**BILL ON SECOND READING
S. No. 1105—Amending Section 325 (A)
of RA 7160 (Local Government Code)
(Continuation)**

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1105 as reported out under Committee Report No. 25.

The President. Resumption of consideration of Senate Bill No. 1105 is now in order.

Senator Romulo. Mr. President, when we suspended the consideration of this bill last night, Senator Herrera had expressed his reservation to interpellate.

SUSPENSION OF THE SESSION

Mr. President, May I ask for a short suspension of the session.

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 10:50 a.m.

RESUMPTION OF THE SESSION

At 10:53 a.m., the session was resumed.

The President. The session is resumed. Before the Chair recognizes Senator Herrera and proceed with his interpellations, the Chair desires to obtain some information from the Sponsor.

not be continued in the law using Personal Services? If that is too small, what we have to change is the percentage. Instead of 45 percent, we can make it 55 percent or 60 percent and so on, without altering in any way accepted standard and institutionally accepted budgetary classifications.

Senator Webb. Yes, Mr. President. In fact, that is what I am going to do in the period of amendments. That is why I asked about Personal Services because that could be a response to the existing problem.

Mr. President, may I now go to my last question. As Chairman of the Committee on Local Government, may I ask the Gentleman if this legislation covers employees in provinces having a component city?

Senator Sotto. Yes, Mr. President, it covers all.

Senator Webb. When the Gentleman says "component provinces," is it automatic that a component city is included in the term "provinces"? Or should we not define that, indeed, a component city is included?

Senator Sotto. If the Gentleman feels there is a necessity to do so. But it is my opinion that component cities are automatically included in the province where these are located.

Senator Webb. Just to clarify, Mr. President, I would like to make this amendment during the period of amendments and I hope the Sponsor will yield.

I thank the Gentleman for his patience.

Thank you, Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a short suspension of the session.

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

It was 11:34 a.m.

RESUMPTION OF THE SESSION

At 11:35 a.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, I move that we close the period of interpellations on Senate Bill No. 1105.

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

Senator Romulo. The period of amendments will be on Monday, Mr. President.

SUSPENSION OF CONSIDERATION OF S. NO. 1105

Mr. President, I move that we suspend consideration of Senate Bill No. 1105.

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

MANIFESTATION OF SENATOR MAGSAYSAY (Senator Romulo as Coauthor of S. No. 1399)

Senator Magsaysay. Mr. President.

The President. Senator Magsaysay is recognized.

Senator Magsaysay. Mr. President, I would like to manifest that the Senator from Tarlac, Senator Romulo, be made a coauthor of Senate Bill No. 1399.

The President. Let it be entered into the *Record*.

RESOLUTION ON SECOND READING P. S. Res. No. 225 - Ratification of the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

Senator Romulo. Mr. President, I move that we consider on Second Reading Proposed Senate Resolution No. 225, as reported out under Committee Report No. 33.

The President. Consideration of Proposed Senate Resolution No. 225 is now in order.

The Secretary will read only the title of the Resolution, without prejudice to entering into the *Record* the whole text thereof.

The Secretary. Proposed Senate Resolution No. 225, entitled

RESOLUTION CONCURRING IN THE RATIFICA- TION OF THE UNITED NATIONS

RSR Wholesale Guns, Inc., a US wholesaler in New York, quotes the unit price of Beretta at \$419.95 for every two or more pieces purchased, and the Baby Eagle at \$389.95 for every two or more pieces purchased.

These are, kindly take note, Mr. President, US prices. The prices at source, namely Italy for Beretta and Israel for Jericho, should be much lower, especially if it is a bulk purchase. It becomes even lower if it is a government or a government agency, like the PNP, doing the bulk purchase.

Yet the PNP agreed to pay a unit price of \$660, exclusive of customs duties. Nothing more needs to be said, Mr. President, it is an open-and-shut case. I see no mitigating circumstance, not the thinnest fog or figleaf to cover this unadulterated and shameless theft!

Even if the PNP had chosen the best-performing weapon which it did not, it would still be criminal to charge an overprice, and we would share in the guilt if we allowed that, despite our knowledge of the fact.

If only for this, all those involved in the award should be dismissed from the service and criminally charged in court.

Mr. Alunan has hurled the challenge that I bring him to court, Mr. President. I advise Mr. Alunan not to be impatient. The charges will come in due time, for he has certainly earned the privilege. His duty right now is to vacate his position if he truly believes that his honor is more important than his office.

Thank you very much.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, we shall take up the following bills: Senate Bill No. 1399, An Act to Further Liberalize Foreign Investment, Amending for the Purpose Republic Act No. 7042; Senate Bill No. 1105, An Act Amending Section 325(A) of the Local Government Code; Senate Bill No. 1188, the Irrigation Crisis Act; and Senate Bill No. 1316, Prescribing Officer Grade Distribution in the Active Force of the Armed Forces of the Philippines.

SUSPENSION OF THE SESSION

May I ask for a short suspension of the session, Mr. President.

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

It was 4:48 p.m.

RESUMPTION OF THE SESSION

At 4:49 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, last Wednesday, Senate Bill No. 1399, An Act to Further Liberalize Foreign Investment, Amending for the Purpose Republic Act No. 7042, was sponsored on the Floor by the Chairman of the Committee on Economic Affairs, Senator Magsaysay Jr.

BILL ON SECOND READING

S. No. 1399—Liberalizing Foreign Investment, Amending RA 7042 (Continuation)

Today, may I ask that we resume consideration of this bill, Mr. President. As directed by the Chairman of the Committee on Economic Affairs, there will be a supporting sponsorship speech on this bill.

For this, Mr. President, I ask that our distinguished Colleague from Pampanga, Pangasinan and Negros Occidental, Senator Macapagal, be recognized.

The President. Senator Macapagal is recognized.

SPONSORSHIP SPEECH OF SENATOR MACAPAGAL

Senator Macapagal. Ginoong Pangulo, bilang pangunahing taga-akda ng Panukalang Batas sa Senado Blg. 340, ang pagpapaluwag pang mga dayuhang puhunan, ako ay sumusuporta sa panawagan ni Senador Ramon Magsaysay Jr., pangulo ng Komite ng mga Bagay Tungkol sa Ekonomiya, na ipasa sa Senado ang kanyang Panukalang Batas Blg. 1399 na pinagsama ang aking panukalang batas, at iyong kay Senador Drilon tungkol sa kahulugan ng "Philippine national."

Mabuti sigurong maikuwento ang puno at dulo nitong batas tungkol sa dayuhang puhunan. Gaya nang sinabi ni Senador Magsaysay, ang batas tungkol sa dayuhang puhunan ay ipinasa noong 1991. Noong panahong iyon, ang inyong Lingkod ay Undersecretary ng Pangangalakal at Industriya at si Senador Vicente Paterno ang pinuno ng Komite ng mga Bagay Tungkol sa Ekonomiya.

Noong panahong iyon ay maraming galit sa Board of Investments at mayroon pang nagpapanukala na dapat buwagin na ang BOI.

RECORD OF THE SENATE

TUESDAY, FEBRUARY 20, 1996

THE JOURNAL

OPENING OF THE SESSION

At 4:32 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 58th session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

Let us all rise for a minute of silent prayer.

Everybody rose for a minute of silent prayer.

The President. Amen.

ROLL CALL

The Secretary will now call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present*
Senator Edgardo J. Angara	Absent
Senator Anna Dominique M. L. Coseteng	Present*
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Marcelo B. Fernan	Present
Senator Juan M. Flavier	Present
Senator Ernesto F. Herrera	Present
Senator Gregorio B. Honasan	Present
Senator Gloria M. Macapagal	Present
Senator Ernesto M. Maceda	Absent **
Senator Ramon B. Magsaysay Jr.	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator Sergio Osmeña III	Present
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Miriam Defensor-Santiago	Present
Senator Leticia R. Shahani	Present*
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
Senator Freddie N. Webb	Present
The President	Present

The President. With 18 Senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

*Arrived after the roll call

**On account of illness

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

The President. Is there any objection? [*Silence*] There being none, the reading of the *Journal* of the previous session is dispensed with and the same is considered as approved.

The Secretary will read the Order of Business.

REFERENCE OF BUSINESS

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

The Acting Secretary [Atty. Raval].

February 15, 1996

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

Dear Senate President Gonzales:

I hereby endorse the necessity of the immediate enactment of Senate Bill No. 1367, entitled

AN ACT PROVIDING FOR THE REFORM OF THE PHILIPPINE NATIONAL POLICE AND FOR OTHER PURPOSES, AMENDING REPUBLIC ACT 6975 ENTITLED, "AN ACT ESTABLISHING THE PHILIPPINE NATIONAL POLICE UNDER A REORGANIZED DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, AND FOR OTHER PURPOSES."

The measure would institutionalize the Philippine National Police as a civilian force through reforms in its organizational/structural set-up, as well as human resources and doctrines development and would eventually professionalize the PNP.

With best wishes.

(Sgd.) FIDEL V. RAMOS

cc: Hon. Jose De Venecia Jr.
Speaker
House of Representatives
Batasan Pambansa Complex
Quezon City

AN ACT PROVIDING FOR A MANDATORY COURSE ON HUMAN RIGHTS FOR ALL OFFICERS, MEMBERS AND TRAINEES OF THE ARMED FORCES OF THE PHILIPPINES (AFP), THE PHILIPPINE NATIONAL POLICE (PNP), THE NATIONAL BUREAU OF INVESTIGATION (NBI) AND OTHER LAW ENFORCEMENT AGENCIES, AND FOR OTHER PURPOSES

Introduced by Senator Honasan.

The President. Referred to the Committees on National Defense and Security; Local Government; Justice and Human Rights; and Finance.

The Acting Secretary [Atty. Raval]. Senate Bill No. 1407, entitled

AN ACT IMPOSING STIFFER PENALTIES FOR GOVERNMENT OFFICIALS AND EMPLOYEES AND OFFICERS AND MEMBERS OF POLICE AGENCIES AND THE ARMED FORCES AND PENALIZING "PLANTING" OF EVIDENCE, INCORPORATING SECTION 8 INTO PRESIDENTIAL DECREE NO. 1866, OTHERWISE KNOWN AS CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR RELEVANT PURPOSES

Introduced by Senator Santiago.

The President. Referred to the Committee on Constitutional Amendments, Revision of Codes and Laws.

RESOLUTION

The Acting Secretary [Atty. Raval]. Proposed Senate Resolution No. 310, entitled

RESOLUTION SUPPORTING THE DIYES FOR PEACE-BAYANIHAN PARA SA KAPAYAPAN CAMPAIGN

Introduced by Senator Honasan.

The President. Referred to the Committee on Peace, Unification and Reconciliation.

COMMUNICATIONS

The Acting Secretary [Atty. Raval]. Memorandum from Bangko Sentral ng Pilipinas Governor Gabriel Singson, dated January 16, 1996, furnishing the Senate a Report on Movements in the Price-level, Monetary Aggregates and Credits, January-December 1995.

The President. Referred to the Committee on Banks, Financial Institutions and Currencies.

The Acting Secretary [Atty. Raval]. Memorandum from Bangko Sentral ng Pilipinas Governor Gabriel Singson, dated January 30, 1996, furnishing the Senate a copy of the Report on Public and Publicly Guaranteed Foreign Loans approved by the Bangko Sentral ng Pilipinas (BSP) during the fourth quarter and the whole of 1995.

The President. Referred to the Committees on Finance; Banks, Financial Institutions and Currencies; and Economic Affairs.

The Acting Secretary [Atty. Raval]. Letter from Governor Rosario P. Diaz of the Province of Cotabato, dated January 23, 1996, furnishing the Senate a copy of the 1995 Accomplishment Report of said province.

The President. Referred to the Committee on Local Government.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING

S. No. 1399 - Liberalizing Foreign Investment, Amending RA 7042 (Continuation)

Senator Romulo. Mr. President, yesterday, we started the interpellation on Senate Bill No. 1399 under Committee Report No. 49. I move that we resume consideration of said Senate bill.

The President. Resumption of consideration of Senate Bill No. 1399 is now in order.

Senator Romulo. Mr. President, I ask that the Chairman and Sponsor of the bill, Senator Magsaysay, be recognized with the distinguished Gentleman from Quezon City and Cebu,

Senator Sotto, to interpellate.

The President. Senators Magsaysay and Sotto are hereby recognized.

Senator Magsaysay. Thank you, Mr. President.

Senator Sotto. Thank you, Mr. President. Will the distinguished Gentleman yield for a few questions for clarification?

Senator Magsaysay. Gladly, to the star from the South.

Senator Sotto. Under this bill, Mr. President, I understand that Filipinos who acquired other citizenships will enjoy the same economic privileges and benefits as those actually being enjoyed by Filipino citizens. Is that interpretation correct, Mr. President?

Senator Magsaysay. That is generally true, Mr. President, except those reserved only for Filipino citizens within the purview of the Constitution.

Senator Sotto. Yes, and that includes those Filipinos who have acquired foreign citizenships. Is that accurate, Mr. President?

Senator Magsaysay. As I said earlier, Mr. President, except those reserved only for Filipino citizens within the purview of the Constitution, the other economic activities are now open to Filipino-born but are now foreign citizens.

Senator Sotto. My concern, in asking this question, Mr. President is, considering that these Filipinos are technically foreign nationals who are subject to foreign laws, will their investments not be subject likewise to foreign laws?

Senator Magsaysay. When the Foreign Investment Law was passed in 1991—the intent of which was to liberalize business climate in the Philippines—this brought in a lot of foreigners in our area. Australians, Taiwanese, Hong Kong residents, even some British and some Americans came here and started doing business. For the same matter, we are covered by the amendment of the law. Under Senate Bill No. 1399, we are allowing our own brothers who were formerly Filipino citizens to be given the same opportunity to invest in the country where they were born.

Senator Sotto. Yes, Mr. President, but I would like to zero in on these Filipinos who are technically foreign nationals. The question is whether they will be subject to foreign laws.

Senator Magsaysay. Certainly, Mr. President.

Senator Sotto. Assuming that the answer would be yes, and most probably yes, will their investments not be subject likewise to such foreign laws?

Let me be more specific, Mr. President. Since we will have to rightly assume that they are foreign nationals, suppose the investment laws of their adopted countries require that part of the returns on their capital investments in the Philippines be repatriated, will this not have a dislocative effect on our economy?

Senator Magsaysay. If they do business in our own country, they will certainly have to comply with the laws of our country.

Senator Sotto. Yes. But what about their countries that they are citizens of? Will they have to comply with the laws?

Senator Magsaysay. There might be laws that they might have to comply with in their country. But the fact that they are doing economic business in the Philippines will mean that they will have to follow the laws of the land.

Senator Sotto. What about the land that they are now citizens of? A very specific example I will use is, they have to repatriate part of their income or investment.

Senator Magsaysay. They will also have to follow the laws of their own country where they chose to be citizens. It does not mean that by following the laws of the Philippines, they do not have to follow the laws of their own country.

Senator Sotto. Yes, that is why...

Senator Magsaysay. So, both have to be complied with, Mr. President.

Senator Sotto. The question now is: What does the distinguished Gentleman think of this probable dislocative effect on our domestic economy because they will be bringing out part of their income?

Senator Magsaysay. The fact of the matter, Mr. President, is that when they have decided to invest and do business in the Philippines, they believe that they will have a better opportunity here; therefore, they will have to work within the framework of our society and our laws. I think they know that they will have to comply with the laws of their land and also with our own laws.

For example, when Procter & Gamble came here in the 1930s, it decided to stay until it became a big economic force in our country. But I am sure that Procter & Gamble of Cincinnati knows, being a part of the multinational company, that it will

have to repatriate some of its surplus earnings as part of the corporate policies of its mother company in the United States.

Senator Sotto. Mr. President, the Gentleman will have to help me because I am quite apprehensive on this note—the comparison of a big company like Procter & Gamble to a regular American investor who used to be a Filipino. I do not think there is much of a comparison, and I would assume that they would follow the laws that we are setting.

But again, my question is: What does the distinguished Gentleman think would be the dislocative effect, if ever there will be, or does he not think that there will be any dislocative effect?

Senator Magsaysay. Is the Gentleman referring to the bad effect on the Philippines and on the economy or to the bad effect on the businessman who has decided to invest here?

Senator Sotto. On our country, Mr. President.

Senator Magsaysay. The dislocation to the businessman or the dislocation of...

Senator Sotto. No, Mr. President. If I may go over it again. We took the example of a regular Filipino who has now become an American and who would like to invest in the Philippines, but he has to follow certain laws in the United States regarding investments abroad. What does the distinguished Gentleman think would be the effect of this on our economy?

Senator Magsaysay. I think the effect on our economy is positive in the sense that this Filipino-born but already a US citizen has decided to put himself back into his old country and put in his resources, capital, time, presence and efforts to build up a business in the country. He will not invest far away from his adopted country unless there is a potential economic pursuit that he knows he can excel in and add value to the capital that he will put into the country.

Whatever requirements the laws of the United States will require of him, of course, he has to comply with those laws. It does not mean that it will impact negatively on his operations here.

Senator Sotto. Yes. But suppose he is required to repatriate the returns of his investments, what does the Gentleman think would be its effect?

Senator Magsaysay. The repatriation of investment and/or surplus is liberalized in the sense that we now have a very mobile society and funds can be transferred one way or the other

as needed or as required by the business activities here. We know for a fact that capital is a very skittish and sensitive type of business. Capital can easily leave the country if there is, let us say, political instability. But capital can also come back to the country if the capitalists see that there are better opportunities here than in their own country.

Senator Sotto. I am sorry, Mr. President, but I am asking this question because I want to be convinced by the Gentleman that there would be no dislocative effect. But it seems that I cannot extract an absolute answer from the Gentleman. Can the distinguished Gentleman not give me a “no” answer?

Senator Magsaysay. Does the Gentleman want me to answer yes or no?

Senator Sotto. If he can do so, why not? It would probably erase part of my apprehension if I can be assured. I am just worried that if these foreign nationals, or former Filipinos, have to repatriate part of the returns on their capital investments, baka magkaroon ng dislocative effect ito sa atin. Makakatulong ba sa atin ito? Makakasama ba sa atin ito?

Ang unang tingin ko, Ginoong Pangulo, baka makasama. I would just like the Gentleman to convince me na hindi makakasama ito sa atin.

Senator Magsaysay. As I was mentioning earlier, Mr. President, there is no absolute answer on this, whether it is yes or no. Because when a business is established in a country, the premise is that this businessman strongly believes that he will earn money in this location, and here we are referring to the Philippines. As long as he is developing growth in this business location, he will try to put in more capital.

Now, we are talking of the ordinary Filipino-born US citizen. He does not have to repatriate much. Maybe he will have to send some money to his family in the United States. But, generally, he will try to bring in his capital here and make use of it so that the business will prosper. It will not go to the point that he will siphon his capital from the business that he has decided to work on in the Philippines and the business to collapse. In fact, he will try to put in more capital here if he cannot get local credit so that the business will prosper.

The record shows that since 1991, hundreds of foreigners and even Filipino-born but of different citizenship, have come back to do business in their own country where they were born.

Senator Sotto. Mr. President, probably later on I could be enlightened on this but at the moment my apprehension remains.

By including former Filipino citizens in the definition of Philippine nationals, we therefore allow them to invest in areas listed in Negative Lists B and C, is that right?

Senator Magsaysay. That is true. They are considered as Filipino nationals.

Senator Sotto. Were these provisions included in Senate Bill No. 340 and Senate Bill No. 855 or just in Senate Bill No. 1399?

Senator Magsaysay. This provision was the main provision of Senate Bill No. 855 authored by Senator Drilon.

Senator Sotto. And it was not in Senate Bill No. 340?

Senator Magsaysay. It was not in Senate Bill No. 340, the mother bill authored by Senator Macapagal.

Senator Sotto. So, when the distinguished Gentleman formulated Senate Bill No. 1399, this was included. Was there any lobby of some sort to include this amendment in Senate Bill No. 1399?

Senator Magsaysay. There is no lobby, Mr. President. The straightforward purpose of this provision, which is embodied in Senate Bill No. 855, is to give former Filipino citizens who have acquired foreign citizenships the same opportunity given to natural-born Filipinos, except for those reserved under the Constitution to do business in the Philippines. Because almost 6 million of our fellow Filipinos are abroad and they might have adopted foreign citizenships but in their hearts and in their minds they are still Filipinos and they would like to come back, even reside, and do business in their old country, their mother country.

Senator Sotto. So during the hearings conducted by the Committee, they were represented?

Senator Magsaysay. They were not represented per se in the Committee hearings that we conducted.

Senator Sotto. How did the Sponsor obtain the opinion that he just manifested, Mr. President? Were there no groups representing them?

Senator Magsaysay. Although they were not formally represented in our hearings, the Secretary of the Department of Trade and Industry, Secretary Navarro, approved the content and the body of the consolidated bill, Senate Bill No. 1399.

Senator Sotto. So, did the Committee conduct any consultations with former Filipino citizens, specifically to be

very strong on this provision and include it in Senate Bill No. 1399 which was absent in Senate Bill No. 340?

Senator Magsaysay. If the President will allow, I would like to ask the author of Senate Bill No. 855, Senator Drilon, to make some statements with regard to this question.

Senator Drilon. With the permission of the two Gentleman, Mr. President.

The President. Senator Drilon is recognized.

Senator Drilon. Mr. President, in reply to the question of the Gentleman from Quezon City, Filipino residents abroad have been asking for this kind of a treatment. Mr. Alex Exclamado, one of the Filipino leaders in San Francisco, who publishes the leading Filipino newspaper in San Francisco, was very strong in his sentiment that former Filipino citizens should not be put at the same level as foreigners as far as investment in the country is concerned.

If we have liberalized investment, he argued correctly, why should we continue to put limitations on natural-born Filipino citizens who have acquired American citizenship or foreign citizenship because, in many instances, of necessity? This is a clamor on the part of many of our former Filipino citizens now in the United States.

If I may add, Mr. President, one of the reasons why a tiger economy like Taiwan, and now the emerging economy of the People's Republic of China, progressed at that pace is the economic muscle and assistance of about 55 million overseas Chinese.

In the same manner, in the case of Israel, it is known that many of the Jews in the United States and other countries have continuously invested in Israel to help its economy.

In our particular case, we treat our former Philippine nationals just like any foreigner. It is a policy decision, Mr. President, that we are proposing in this bill that we should give special treatment to our former Philippine nationals as far as investment is concerned, consistent with the liberalization policy of this government.

If the Gentleman will allow me, I would like to address the previous question of the Gentleman from Quezon City on the matter of which law will govern the possible investment by former Philippine nationals. Mr. President, the investment in the country will be governed by the laws of the Philippines.

First, the rules on repatriation of profits and capital would

be governed by Philippine laws, not by the laws of the country where this investment came from. There is no change in the present law. The proposed law is only designed to open up investment to former Philippine nationals within the limitations of our Constitution.

Second, Mr. President, this proposed law would allow investment in that portion of the equity reserved for Filipino citizens.

Presently, our former Philippine nationals can invest in almost all areas of business activity except that they are limited to 40 percent or less. This would now allow them to invest in the portion of the equity reserved for Filipino citizens.

Thank you, Mr. President.

Senator Sotto. Therefore, Mr. President, they were represented. Or, were these manifestations by former Philippine nationals made outside of committee hearings?

Senator Drilon. Mr. President, these manifestations were made outside of the committee hearings because it would have been difficult to bring over former Philippine nationals presently residing in the United States.

We asked Trade Secretary Rizalino Navarro about these, and he did confirm that indeed this will open up investment to former Philippine nationals who are now residing in the United States. The Executive has interposed no objection to the passage of this bill, Mr. President.

Senator Sotto. Nevertheless, these former Filipino citizens expressed their desire to invest in the Philippines. What specific areas of business did these former Filipino citizens like to invest in, Mr. President?

Senator Drilon. We regret that we were not able to get the areas of possible investment. Mr. President, presently, former Filipino citizens cannot invest in retail trade. If this law is passed, they will be allowed to invest in retail trade.

We know for a fact, Mr. President, that large shopping centers engaged in retail trade are controlled by naturalized Filipino citizens. So why would we deny, as a matter of policy, investment by former Philippine nationals in retail trade?

There are a number of businesses where the foreign equity is limited to 25 percent. For example, in the private recruitment business, foreign investment would be limited to 25 percent. Under this proposed law, natural-born Filipino citizens who acquired another citizenship would now be allowed to invest in

the other 75 percent reserved for Filipino citizens.

In other words, Mr. President, the bill just expands the areas upon which these former Philippine nationals can invest.

Senator Sotto. Mr. President, it is a pity that these manifestations were not included in the public hearings, because I would have asked how much investments are expected from these former Filipino citizens, if ever the bill is passed.

Anyway, I would like to thank the Gentleman for that, Mr. President. May I move on to other points related to this.

Mr. President, would the Gentleman agree that there is a possibility that foreign nationals can control local strategic businesses or even industries through, let us say, these former Filipino citizens who may act as their dummies?

Senator Magsaysay. That is always possible, Mr. President. Actually, there was already an experience in 1949, after the Communists took over Mainland China where there were a lot of Chinese who came over and evacuated from their own country. That was the reason the nationalization of the Retail Trade Act was passed by Congress in 1954 which tried, but vainly, to prevent the Chinese from taking over the retail trade. The Chinese just married Filipinas or Filipinos, and in effect, continued doing retail business. The effect of this law was to force them to go into wholesale distribution and trading which they excelled in and are now virtually dominating that aspect of the business.

Senator Sotto. My apprehension in this bill is that the economic privileges being enjoyed by actual Filipino citizens will now be granted to these former Filipino citizens. Given the fact that there is a possibility that they can be used as dummies by foreign nationals, does the Gentleman not think that later on the actual Filipino citizens will be at a disadvantage as far as their capability to raise the necessary capital investments which they are required to set up is concerned?

Alam natin na may backing na galing sa ibang bayan, at ang mga former Filipino citizens ay mayroong access to capital investments. Papaano ngayon ang actual Filipino citizen? Wala siyang access na ganoon. Does the Gentleman not think that the actual Filipino citizen will now be at a disadvantage once this bill is passed?

Senator Magsaysay. Ang katotohanan po niyan, Ginoong Pangulo, itong mga amendments ng Foreign Investment Act, ang layunin nito ay iyong pumasok ang kapital. It is liberalizing investments in the Philippines so that the foreigners, whether they have big, medium or small investment will be attracted to

come into our country.

Capital is very picky and very sensitive. We are not the only country that foreign capitalists and investors are looking at. We are competing with big countries that even have lower labor cost, like Mainland China and Vietnam, and even Indonesia. We are just looking at and comparing our attractiveness vis-a-vis the neighboring countries of Thailand, Vietnam, Indonesia and Malaysia.

There are parallels in what we are doing. It is a race to attract foreign investments. The provision on treating Philippine-born foreign nationals is a big factor in attracting more of the foreign capitals because by nature, Filipinos want to come back to their own shores. In fact, OCWs and *balikbayans*, numbering almost 4 million, pumped in P4.7 billion of hard-earned capital in their own country.

Many of these are already citizens of other countries. But are we going to remove the privileges and opportunities from these so-called "new heroes" and give them to plain foreigners because of this proposed law?

That is the meat of the amendments of the law, Mr. President.

Senator Sotto. Therefore, Mr. President, upang pumasok ang kapital is the intention of these provisions in the bill. If that is the intention, I will have to admit that the intention is necessary—upang pumasok ang kapital.

Ginoong Pangulo, kung sabihin naman ng karaniwang Pinoy na, "Papaano naman kami?"

Senator Magsaysay. Mr. President, the local boys, so to speak, can take care of themselves. They have the knowledge of the terrain of their own country; they have their credit worthiness; they have the advantage of knowing how the market goes. It is always a disadvantage for a foreigner, even a Filipino-born foreign citizen, to come back to his own country and start business. That is the fact of life.

The locals, depending on how they want to be competitive and how enterprising they are, will also have to work hard and take risks. Otherwise, with the opening up of the world trade through the WTO and the lowering of duties and taxes, if they will not try to be more prepared for the next 10 years, then certainly, kawawa iyong mga local boys natin. But that is exactly what we are trying to do. Through some kind of germination or assimilation, they can learn to be more aggressive and more enterprising in working or even competing with these foreign investors and foreign businessmen coming in.

Senator Sotto. But, Mr. President, these foreign or former Filipino citizens will have better access to investments than the regular Filipino businessman or the regular Pinoy.

What we are proposing now in Senate Bill No. 1399 is, I understand, equal rights, privileges and opportunities. I only would like to think that the intention is to level the playing field, so to speak, for both parties.

Now, do we honestly believe, after the Gentleman's explanation, that this kind of leveling the playing field will promote and increase domestic investment opportunities? Will the actual Filipino citizen or investor not be effectively crowded out later on, given the fact that Filipinos who have acquired other citizenships may have relatively easier access not only to financial resources but also technical resources, not to mention that they can be easily used as dummies by foreign nationals?

Senator Magsaysay. That is a possibility, Mr. President, that the local businessmen will be crowded out. But, as I said earlier, this is the name of the game—that we are not overprotective of our fellow Filipinos because the Filipinos can be as tough as anybody in this globe. The Filipino, when he goes overseas, can excel in just about everything. In fact, the Filipino professionals are manning the engineering, the merchant marine fleet, the investment banking and accounting of the region.

So, we should not pamper them. We should not feel that we have to protect them because they can take care of themselves.

The problem with a lot of our countrymen is, we feel that the Filipinos need so much protection. That is not a fact, Mr. President. The Filipinos can take care of themselves. They can excel and even be better than other peoples of other countries in this part of the world.

Senator Sotto. In other words, the way I understand it from the explanation of the Gentleman, Mr. President, there is a possibility that it can happen. They can be crowded out and we are willing to gamble. That is the sense that I am getting from the Sponsor of this bill.

It just so happens, Mr. President, that my apprehensions will grow on a different note, because when it comes to the regular Filipino, I do not think that we should level the playing field. I believe in playing favorites. My favorites are the farmers, the fishermen and the laborers.

Just one final point, Mr. President. Under the proposed bill, practically, there will be equal economic and investment rights and opportunities being enjoyed by actual Filipinos now only that it will be given to these former Filipino citizens. Will this

equal treatment principle not infringe upon the basic constitutional rights of a local Filipino?

Senator Magsaysay. It will not, Mr. President. As mentioned in this bill, there are certain activities, like broadcasting, that are really reserved for Filipinos under the Constitution. This bill will not let them enter in those economic activities that are, under the Constitution, reserved for Filipino citizens.

In fact, there is a retention of the Negative List C which the Filipino businessmen, sector or trade may avail of. Under Section 9 of the law, they may apply not to allow foreigners to invest in such an economic sector. That is the vehicle, as the Gentleman mentioned earlier, wherein the government, through the NEDA, can reserve certain business sector activities for Filipino citizens.

Senator Sotto. Can we be assured by the distinguished Sponsor, Mr. President, that the economic rights and privileges of local Filipinos will not be diminished or constricted by Senate Bill No. 1399?

Senator Magsaysay. The Senator may be assured that the economic rights of the Filipino citizens will not be diluted nor weakened.

Senator Sotto. Are there any provisions in this bill that will assure us, Mr. President, aside from the assurance of the Gentleman from Zambales?

Senator Magsaysay. As I mentioned earlier, Mr. President, under the Constitution, certain economic activities are exclusively reserved for Filipino citizens, particularly the Negative List C.

Senator Sotto. Mr. President, there are some other points I would like to bring out this matter, and the bill itself in general. At this point, I would like to thank the Gentleman for giving me enough time to be able to ask some questions for clarification on the other subjects and issues. I asked these questions just to make sure that the actual Filipinos will not lose confidence on the economic and investment systems of this country once we approve this bill.

If I may be given the pleasure by the Majority Leader to reserve my continuing interpellation after this, I hope to be enlightened by the forthcoming interpellations by the other members of the Senate before I pursue some other points on the bill.

Thank you, Mr. President.

Senator Romulo. Mr. President, we have noted the reser-

vation of the distinguished Gentleman from Quezon City and Cebu.

For the next interpellation, Mr. President, may I ask that the Senate President Pro Tempore, Senator Shahani, be recognized.

The President. Senator Shahani is recognized.

Senator Shahani. Thank you, Mr. President. I wonder whether our distinguished Colleague from Zambales and the Chairperson of the Committee on Economic Affairs would entertain some questions from this Representation.

Senator Magsaysay. Willingly from the star of Pangasinan, the neighboring province of Zambales.

Senator Shahani. Mr. President, the debate on this important bill has really revolved around the need to strike a balance between liberalization on one hand and globalization on the other, reserving certain areas for investment for Filipinos in order that we should not discriminate or weaken the economic potential of our own citizens. Is that not correct, Mr. President?

Senator Magsaysay. That is correct, Mr. President.

Senator Shahani. And other countries have also gone through this exercise which we are now going through. In India, what this bill calls "Philippine nationals" is referred to as "Non-Resident Indians" or NRIs. Of course, the role of the overseas Chinese in both the economies of China and Taiwan are also well known. Are they not, Mr. President?

Senator Magsaysay. That is true, Mr. President.

Senator Shahani. Be that as it may, I believe that in our debate on this bill, we should still take some precautions in order that a bill of this nature will be long-term rather than short-term in its application.

Mr. President, this debate has revolved around the meaning of the phrase "Philippine nationals." What about the children of these Philippine nationals? After all, Sen. Frank Drilon referred to Alex Exclamado who is, I think, well known in the Senate, who represents a generation of Filipinos who migrated to the United States. But I think there is already a generation of Filipinos who were born Americans and who would constitute the younger, more dynamic generation of Filipinos. What will happen to them, Mr. President?

Senator Magsaysay. If the children of Filipino-born foreign nationals are also born in the country, they will also be included in this provision. However, if the children are born in

the new country of the Filipino-born foreign national, then these children are not included in the provision as crafted.

Senator Shahani. So this bill is really time-bound. In other words, when this generation of Filipinos who were born in our country eventually return, just as we have witnessed in the past 20 years the great wave of Filipino migration from our country because of the Marcos' dictatorship and economic hardships, these could be the majority of Philippine nationals we are talking about.

Does the Gentleman see the children of this generation of Filipinos being able to take advantage of this bill, notwithstanding that these children were born in a second country, Mr. President?

Senator Magsaysay. When they reach the age of majority or before they reach the age of majority, I understand that they may choose their citizenship. Otherwise, this provision does not cover these children.

Senator Shahani. So, the distinguished Sponsor will agree with me that the term "Philippine nationals" is really "time-bound"?

Senator Magsaysay. Yes, Mr. President.

Senator Shahani. Maybe, that is something we should think about, Mr. President.

Secondly, while this Representation, of course, is in favor of Filipino capital coming back to the Philippines whether brought in by Filipino citizens or Philippine nationals, as defined in this bill, does the Gentleman foresee major, large investments to be placed by these Filipino nationals in our economy which would be substantial in amount and invested in major infrastructure projects?

Senator Magsaysay. As stated in Senate Bill No. 340, authored by Senator Macapagal, since the 1991 Foreign Investment Act was implemented, 20 months after the passage of that law, P2.19 billion worth of new capital was injected into the economy. This P2.19 billion came from 324 foreign companies.

To further show the results of the effectivity of the Foreign Investment Act of 1991, the Board of Investments showed a projection of a number of jobs that will be generated which are as follows: for 1996—provided that the bill is amended to allow easier entry into our economy with one of the provisions of this bill—there will be 80,508 new jobs worth P8 billion. This is based on P100,000 new capital for every new employment; for 1997, it is roughly about 99,000 new jobs worth about P9.9

billion; up to the year 2000, 155,000 new jobs worth about P15.5 billion investment.

Senator Shahani. Mr. President, I am asking the question because we have heard many of these Filipino nationals talk about their desire to come home. And when we listen to them, their main desire is really to invest in real estate, in the buying of land. Is this not true, Mr. President?

Senator Magsaysay. That is true, Mr. President. I have gone to a couple of get-togethers of Filipino residents in Stanford, in Santa Clara County, California, and in Salt Lake City, Utah, and all of them were signifying that they would like to come home.

Even the young professionals in Brigham Young University, outside of Salt Lake City, would like to come home, reside and do business in the Philippines. But they have very little knowledge—this is a knowledge based on what is happening in their own country.

If they will be allowed to be part of this target market of attracting capital through this Foreign Investment Act, I am sure that once they know about these privileges that they will be able to do business in many spheres of business, they will certainly come back from the United States and other developed countries and bring in their capital, knowledge, experience and technology to the Philippines.

Senator Shahani. As the distinguished Sponsor has said, Mr. President, the main interest is really in real estate. Would the distinguished Sponsor not agree that investment in real estate has limited developmental impact and in some cases, can even be anti-developmental? And that is the kind of business which many Filipinos go into, such as manufacturing, for instance, or the undertaking of major infrastructure projects.

Senator Magsaysay. That is a good point, Madam Senator. The Filipino tends to be very conservative in his investment—going first into real estate. But that is just the beginning of their journey to do business in the Philippines. Owing to the fact that our present banking system requires real estate property collateral, the decision of the Filipino, first, to buy real estate even before he starts his own business is in a way sound, because that same real estate, once it is titled and free of any lien, can be his basis of starting a credit line from a local bank wherein he can now start his business on solid footing.

We feel that this capital that he has accumulated in the other country will first go into real estate; witness the fact that there are many real estate developments not only in Metro Manila but even as far as Cagayan de Oro or Davao City or Cebu, and it

shows that there is a high demand for real estate. But it is not the end of the journey; it is giving them that window to a credit line which our local banks unfortunately insist that they have real estate collateral before they are given a business credit line.

Senator Shahani. I believe this is why we should have an effective educational and information campaign about this bill, because it would be meaningless if the anticipated investments are only channeled to real estate development in the country. Because of our economy's need for a balanced approach, the attraction of scientists and bigger investors, we will have to create some kind of an intellectual climate to induce them to go into the other areas of investment, and not just concentrate on real estate.

Senator Magsaysay. The statement is well-taken, Mr. President.

Senator Shahani. Mr. President, in the list of investments provided in the law, and I refer to Section 3, Section 8 of the Foreign Investment Act, as amended, we have a Negative List B in which there is reference to defense-related activities and which require prior clearance and authorization from the Department of National Defense. As the distinguished Sponsor knows, we are going through a major modernization program of the armed forces, and the major component of the debate on the matter during the Ninth Congress, I recall, was the tremendous emphasis on the need for self-reliance, the need for us to have the manufacturing capability to produce some of our basic defense needs.

May I know whether this list B—although it is a negative list—is sufficient to propel that modernization of our military capabilities? Because the areas to be open under the bill are really limited to a very small aspect of our defense capability-building needs.

Senator Magsaysay. This list stays in the sense that unless the Department of National Defense says so, not just anybody can get involved in any of the business activities of defense as enumerated.

Senator Shahani. Mr. President, may I know why is it that the manufacture of certain types of ships, for instance, which we are already supposed to be manufacturing in this country is not included in this negative list?

I wonder whether this has been cleared with the Philippine Navy, Mr. President, which has an ongoing program of ship-building.

Senator Magsaysay. This may be included, Mr. President,

because in the Navy, of course, which is part of national defense, these are essential.

Senator Shahani. Mr. President, in the negative list, is there any preference given to the use of our own local materials or maybe not in the negative list, but also in those areas where Philippine nationals or foreigners are proposed to come in?

Are there any guarantees or safety nets to the effect that local materials and local human resources will be used whenever feasible?

Senator Magsaysay. That is not included in this law or in the amendments.

Senator Shahani. I hope that in the implementing rules and regulations, Mr. President, such considerations which could provide employment to our people—because investments are supposed to generate employment—I believe is the bottom line. I think that should be reemphasized in order that we will not be again flooded by cheap labor or materials coming from other countries when in fact we can ourselves produce the same materials locally.

Senator Magsaysay. These are covered in the Omnibus Investments Code where incentives are included and given in the provisions, Mr. President.

Senator Shahani. Mr. President, the distinguished Sponsor and I are together in sponsoring a bill which would amend the Magna Carta for Small and Medium-Sized Domestic Market. The small and medium-size domestic market enterprises are included in the Transitory Foreign Investment Negative List. How does he see the growth of the small and medium-sized domestic enterprises to take place with the passage of this bill?

Senator Magsaysay. The growth of the small enterprises, Mr. President, will certainly become more pronounced in the sense that once these foreign investors coming from other countries, particularly Hong Kong which we are focusing on—before 1997, a lot of Hong Kong businessmen and enterprises are looking at our country among others to transfer—the generation of economic activities will spur on the growth of small enterprises.

In fact, Mr. President, the provision to reduce the "entry ticket," as appropriately called, for a foreign investor to come into the country from US\$5 million paid-up capital to \$200,000 will definitely make it easier for a small enterprise to come and do business in our country, and this will spur on attendant contractors, suppliers and other business practitioners in our own country.

Senator Shahani. Mr. President, the distinguished Sponsor seems to think that this spurring or the encouraging of further business enterprises is going to happen automatically.

I believe that somehow the government has also to intervene because, naturally, the foreigners who are coming here are less bothered by risk; they go more into risk-taking than the locals who would be more conservative.

So, does he not see that there has to be some government interventions at certain points to ensure the growth of local small-scale industries here? I do not think that it is as automatic as he seems to assume it to be, Mr. President, because there will be other social factors that could very well influence any economic situation. Should that not be given some attention?

Senator Magsaysay. That is possible, Mr. President, that there will be some victims to this approach to attract foreign capital and foreign businessmen to invest and do business in our country. But these are the givens in any open society.

We cannot protect completely those who are less-prepared to do business. This has been happening even now when huge shopping centers like Megamall, Shangrila and Gaisano are taking over the business of consumer sales, taking them over from *sari-sari* stores and even public markets. This is happening, and it is part of the development of convenience, marketing, quality, et cetera. So government can only do so much to protect those that have to be protected.

One of the policies that the government through the Senator from Pangasinan has done quite effectively is the passage of the SME law, the Magna Carta for Small Enterprise which is now being amended by the Author herself and myself as Chairman of the Committee on Economic Affairs. This gives the small business practitioner the ability to borrow even without his own collateral with the Small Business Guarantee Finance Corporation (SBGFC) that may guarantee a loan of an enterprise up to 85 percent of the principal amount of the loan for a small service fee of 1.72 percent over and above the prevailing lending rate of a lending institution or of a bank.

Senator Shahani. Mr. President, this Representation will always be vigilant on the fate of those who may not be able to compete for lack of capital. In a country like ours where about 40 percent of our population live below the poverty line, we should always see to it that there are appropriate government interventions that will push these poorer sectors of our economy to prosper. They will not necessarily prosper automatically but they will be needing support from the government from time to time until they finally become self-reliant.

Mr. President, before concluding, I would like to go back to my original question: What happens to the children of these Filipino nationals?

As our Sponsor has admitted, this bill will only apply to the Filipino nationals who were born here but not to their children, unless, of course, they are born in this country and can therefore later elect Filipino citizenship at the proper time.

How will this bill affect the provisions of our civil law on succession? The children of the would-be beneficiaries of the bill may not be deemed as former Filipino citizens. They are not former Filipino citizens anymore as contemplated in the bill.

So, it would create a situation where the children of these "Filipino nationals" as heirs will inherit the enterprises located in the country, thereby overextending the benefit beyond than what is intended in the bill.

As I said, it is time-bound. I am wondering whether this important issue should not be looked into carefully.

Senator Magsaysay. In terms of inheritance, Mr. President, it will not affect the inheritance of the children of these natural-born Filipino citizens.

Senator Shahani. I am talking about succession, Mr. President.

Senator Magsaysay. Succession of business?

Senator Shahani. Yes, Mr. President. Because the children will not be Filipino nationals anymore.

Senator Magsaysay. That is correct.

Senator Shahani. This is a problem. The Gentleman himself admitted it, Mr. President. What was supposed to be owned by Filipino nationals will be foreign-owned, even the real estate.

Senator Magsaysay. Maybe, the co-author of the bill who is a legal eagle, Senator Drilon, may help me out on this, Mr. President.

Senator Drilon. Mr. President.

The President. Senator Drilon is recognized, with the permission of Senator Magsaysay and Senator Shahani.

Senator Drilon. Mr. President, it is really a policy issue at this stage whether or not we will expand the meaning of

"Philippine nationals" to include children of Philippine nationals who became foreigners and who acquired equity in nationalized corporations.

Mr. President, as presently worded, the children of former Filipino citizens will be disqualified from holding on to the equity. There can be a reversion to the state in that case since they are disqualified.

The President. With the permission of the Senators on the Floor, the Chair wants to get some clarification.

When Senator Drilon speaks of "natural-born Filipino" who has lost his Philippine citizenship by acquisition of another citizenship and his children, does that mean that this shall be exercised successively or concurrently?

In short, here is a former Filipino citizen who acquired citizenship of another country who has several children. May all of them concurrently exercise the rights granted here or only successively after the death of the former?

Senator Drilon. Mr. President, as the bill is presently worded, the definition of "Philippine national" would not extend to children of natural-born Filipino citizens who acquired another citizenship. That is a situation which we did not contemplate of when we crafted the bill.

The President. The issue being raised by the Senate President Pro Tempore is that under the present language of the bill, it is time-bound.

Senator Drilon. That is correct, Mr. President. It is time-bound.

The President. And therefore, there is a suggestion that probably the right should be extended to the children. The point that I am only trying to raise is whether or not in that case, the benefit will be accrued and exercised concurrently by both parents and children at the same time, or only successively.

Senator Drilon. Mr. President, my view is that it should be done successively.

The President. That is the only point the Chair wants to clarify. The Senate President Pro Tempore may proceed.

Senator Shahani. But, Mr. President, if this will apply successively, will that not affect the provisions of our civil law on succession?

Senator Drilon. When I answered "successively," Mr.

President, it was in the context of the question of the Senate President that the right will be exercised only upon the demise of the former Filipino citizen. In other words, this right is granted to the former natural-born Filipino citizen who acquired foreign citizenship.

But in case of death, the question is: Can the property acquired by that former natural-born Filipino citizen be passed on to the heir? I think that is the question raised by the Honorable Senator from Pangasinan.

Senator Shahani. Be passed on to the heir who is not a natural-born citizen, who was born in America of a Filipino parent and who is an American citizen.

Mr. President, I think that has to be made clear in this bill. Many Filipinos who are mainly in their 50s, 60s, I guess, want to come home in order to invest on issues or matters that are of sentiment to them. They are really homesick after having been away from the country for a long time. But their offsprings—this second generation of Filipinos—are of different breed. They are scientifically oriented; they are yuppies in the United States—and I would also be for attracting them here in the way that the overseas Chinese have been attracted to go to mainland China—but we will have to go into amending the constitutional definition of what is a "Filipino citizen."

Senator Drilon. Mr. President, as I admitted, we did not consider the situation of the second-generation Filipinos who are foreign citizens. Certainly, it is a policy that is worth examining, and it really depends upon the Members of this august Assembly whether or not to extend such benefit to persons who, by birth, are already citizens of another country, although their parents were originally natural-born Filipino citizens but already acquired foreign citizenship at the time of the birth of that particular person.

The President. That is a very important point raised by the Senate President Pro Tempore because one will not be inclined to make substantial investment here in the Philippines unless he has some assurance that his business and his property may pass on to his descendants if something happens to him.

Senator Shahani. I hope that that point will be further studied by the Sponsors of this bill. I have no further questions for the time being.

I just would like to reiterate my observation that should this bill be signed into law, it would also need a major information and educational program because it could give rise to many questions and divisions in our society. An easy-to-understand information program on the provisions of this bill when adopted

into law would be very useful.

Thank you, Mr. President.

The President. Is there any further interpellation?

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, there are further interpellations. For tomorrow, Senators Roco, Sotto and Angara will interpellate.

**SUSPENSION OF CONSIDERATION OF
S. NO. 1399**

Mr. President, I move that we suspend consideration of Senate Bill No. 1399 until tomorrow.

The President. Is there any objection to the motion? [Silence] There being none, consideration of Senate Bill No. 1399 is hereby suspended.

Senator Magsaysay. Thank you, Mr. President.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, we shall resume consideration of Senate Bill No. 1188, the Irrigation Crisis Act. May I move for a suspension of the session.

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

It was 5:57 p.m.

RESUMPTION OF THE SESSION

At 6:01 p.m., the session was resumed.

The President. The session is resumed.

**BILL ON SECOND READING
S. No. 1188 - Irrigation Crisis Act of 1995
(Continuation)**

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1188, as reported out under Committee Report No. 7.

The President. Resumption of consideration of Senate Bill

No. 1188 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. I ask that the Chairman and Sponsor of the bill, Sen. Heherson Alvarez, be recognized. And to interpellate, we have Senators Revilla, Mercado and Herrera, in that order.

May I ask that the distinguished Gentleman from Cavite, Senator Revilla, be recognized.

The President. Senators Alvarez and Revilla are hereby recognized.

Senator Revilla. Thank you, Mr. President. Maaari po bang magbigay daan ng ilang katanungang paglilinaw ang makisig na Ginoo ng Isabela?

Senator Alvarez. Buong kagalakan po sa lalong makisig na Ginoo ng Cavite.

Senator Revilla. Thank you, Mr. President.

Section 3 speaks of negotiated contract that may be entered into whenever advantageous to the government.

Ang tanong ko po ay ang sumusunod: Ito bang "negotiated contract" na tinutukoy ay direct negotiation? Meaning, directly to a particular contractor without the benefit of publication and bidding?

Senator Alvarez. Directly po doon sa contractor ngunit iyong listahan ng mga contractor na magqua-qualify diyan ay ibibigay noong magsi-certify ng Construction Industry Authority of the Philippines. Mayroon silang master list ng classified bidders na siyang bibigyan ng notification at information tungkol sa bid na ito. At iyong kanilang bid, matapos na maibigay nila, magkakaroon tayo ng short list doon sa listahan na ibinigay nila at sisimulang i-negotiate iyong pinakamababa.

Senator Revilla. I am intrigued, Mr. President, to raise a question for clarification. Sapagkat nakasaad sa Section 3, lines 11 to 13 ang ganito: "Whenever advantageous to the government, the President may enter into negotiated contract."

Ano pokaya ang batayan o basihan na ang isang "negotiated contract" ay magiging kapakipakinabang sa pamahalaan? Sa madaling sabi, advantageous to the government.

Senator Alvarez. Ang unang batayan nito ay iyong pinakamababang pag-aalay, pinakamababang bid. Doon sisimulan ang negotiation. At pangalawa, dahil there is an underlying assumption here in the total conceptual framework

RECORD OF THE SENATE

MONDAY, FEBRUARY 26, 1996

OPENING OF THE SESSION

At 4:22 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 60th session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

Let us all stand for the prayer to be led by Sen. Raul S. Roco. After which, we shall be led in the singing of the Philippine National Anthem and another song entitled Isang Lahi by the UP Manila Chorale.

Everybody rose for the opening prayer.

PRAYER

Senator Roco.

Lord, 10 years ago yesterday, You helped us regain our political freedom.

Help us now keep that freedom with responsibility.

Release us from the prison of corruption, cut the chains of poverty of our people and deliver us from the cynicism of self-dealing leaders.

Imbue us with idealism that we may persevere and give us the gift of self-knowledge that we may act with wisdom and selflessness.

All these we ask in Your name,

Amen.

NATIONAL ANTHEM

Everybody remained standing for the singing of the National Anthem.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I move for a short suspension of the session.

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

It was 4:28 p.m.

RESUMPTION OF THE SESSION

At 4:30 p.m., the session was resumed.

The President. The session is resumed.

ROLL CALL

The Secretary will now call the roll.

The Secretary.

- Senator Heherson T. Alvarez Present*
Senator Edgardo J. Angara Present
Senator Anna Dominique M. L. Coseteng. Present*
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Absent***
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople Present*
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb **
The President Present

The President. With 18 Senators present, the Chair declares the presence of a quorum

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection? [Silence] There being none, the reading of the Journal of the previous session is dispensed with and the same is considered approved.

* Arrived after the roll call
** On official mission
*** On account of illness

this amendment, especially the nonimplementation of Negative List C, now allow foreigners to enter the retail trade?

Senator Magsaysay. This will not, Mr. President, because that is a special law, and this is included in Negative List A.

Senator Angara. Does the committee propose to submit a proposal on the liberalization of the retail trade?

Senator Magsaysay. The committee is not handling that particular bill, Mr. President. This is under the Committee on Trade and Commerce chaired by the Gentleman from Cebu, Senator Osmeña III.

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

Senator Magsaysay. Thank you, Mr. President.

SUSPENSION OF THE SESSION

Senator Mercado. May I ask for a suspension of the session.

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

It was 5:08 p.m.

RESUMPTION OF THE SESSION

At 5:12 p.m., the session was resumed.

The President. The session is resumed.

Senator Mercado. Mr. President, for the next interpellation, I ask that we recognize Senator Sotto.

The President. Senator Sotto is recognized for purposes of interpellation.

Senator Sotto. Thank you, Mr. President. With the permission of the Gentleman from Zambales, I would just like to wind up my interpellation on Senate Bill No. 1399.

If I may again pose a few questions which I should have asked when we started with the interpellation. Just for the record, I would like the Gentleman to respond, with the permission of the Chair.

Let me set the record straight for some of these points that I would like to be enlightened on. Are the amendments in Senate Bill No. 1399 part of the commitments under the General

Agreement on Tariffs and Trade (GATT)?

Senator Magsaysay. The amendments to Republic Act No. 7042 are not commitments under GATT nor the WTO, Mr. President. These are part of the liberalization of our foreign investments to attract more investors, more capitalists to come into the country. These are more in conformity with what is happening in our region where capital coming into the region are bypassing the Philippines because of certain restrictive laws.

Senator Sotto. Is the Gentleman saying that we have no obligations under GATT that are related to Senate Bill No. 1399?

Senator Magsaysay. That is true, Mr. President. We have no obligations under the GATT nor the WTO as far as these amendments are concerned.

Senator Sotto. Let me go into these records and statistics of the DTI because I went through some of the public hearings that the Gentleman conducted and there was mention of these data.

Based on the records and statistics of the DTI, which areas of activities or sectors of business were aided or received infusion of foreign investments after the enactment of RA No. 7042?

Senator Magsaysay. Is the Gentleman talking about the past five years, from 1991, Mr. President?

Senator Sotto. The Gentleman mentioned 1993 and 1994 in his sponsorship speech, Mr. President. I will be satisfied with 1993 onwards.

Senator Magsaysay. This is a list from the Board of Investments under the new Foreign Investments Act, the Securities and Exchange Commission. This is the period from December 1991 to December 1995, last year.

The number of corporations total 1,041. These are: activities in agriculture, fishery and forestry, nine corporations; mining and quarrying, 22; manufacturing, 447; electricity, gas and water, 40; construction, 19; wholesale, 95; transportation, storage and communications, 30; financing, insurance, real estate and business services, 360; community social and personal services, 19.

So we can see, Mr. President, that between manufacturing and financing, almost 90% of 1,041 corporations are in these two activities.

Senator Sotto. Putting all these together, Mr. President, do

these comprise the 403 percent increase that the Gentleman mentioned in his sponsorship speech?

Senator Magsaysay. I believe so, Mr. President.

Senator Sotto. That is very good, Mr. President. Are these growth figures not satisfactory already? What factors make the Sponsor believe that there is further need to liberalize after RA No. 7042 is 403-percent successful?

Senator Magsaysay. Mr. President, at first glance this seems to be satisfactory. But when we look at the infusion of capital into the region from the Western countries and Japan, I do not think the Philippines can even capture 5 percent of the total capital and investments coming into the Asia-Pacific region. So we have to do better.

We cannot be satisfied by being outgunned and outattracted by those who used to be behind us decades ago like Vietnam, Thailand, Indonesia and even Malaysia. These countries have caught up with us and have gone ahead with us, especially Thailand, Malaysia and Indonesia. We have to keep on improving our investment climate, Mr. President; otherwise our Filipino professionals and young people will keep on going to those countries that are getting more economically strong as more capital is infused into their economies.

Senator Sotto. Mr. President, after the passage of Senate Bill No. 1399, have there been any projections or studies made by NEDA and DTI? How much do they expect foreign investment to increase?

Senator Magsaysay. That is a very good question, Mr. President.

I have here projections on FIA investments, foreign investments. The projection for 1996 to 2000 which shows an uptrend briefly, the foreign investment for the year 1996, will be P8.044 billion. By the year 2000—four years from now—it will be P15.5 billion or about double that of 1996.

Senator Sotto. As Chairman of the Committee, would the Gentleman say that these studies by DTI and NEDA that we have now placed into the *Record* of the Senate be called impressively substantial?

Senator Magsaysay. These are conservative estimates of the NEDA and the Board of Investments, Mr. President. We should never be satisfied and rest on our laurels. The fact is that these last three years, the Philippines has been moving positively in terms of economic growth, and we are truly playing catch-up with our neighbors. So it takes a lot of unity, common direction,

and support of the population for these projections to be a reality.

In fact, the government here is merely a facilitator, a steerer, a driver. The real engine of growth is not the government. The real engine of growth and the ones that will put more people working in a growing economy is the private sector. The Gentleman is aware of this, and we should put emphasis on this—that government will just set the direction, but it is the private sector, the people themselves, who will have to do a lot of work and a lot of spadework.

Senator Sotto. Mr. President, the private sector is precisely the reason why I have posed that question. If the Gentleman noticed, I used those two words specifically—impressively substantial—because of the possible adverse effects on the local business sector of Senate Bill No. 1399. Because if the Gentleman can assure this Representation that this will be impressively substantial, then it will relate to my apprehension of the adverse effects on the local business investors which we have discussed about during my first interpellation with him.

We hope that the Gentleman can assure us of the wisdom of this policy in relation to that, Mr. President.

Senator Magsaysay. I can understand the concern of the Gentleman from Cebu, Quezon City and Nueva Ecija. That is also the concern of the Committee members—that we do not merely open up and liberalize without some kind of safety factors or safety nets. That is precisely the reason why we are keeping the negative lists—from A, B and C—although C has no content now as a safety factor for those Filipino businesses that may seem aggrieved with an oversupply of players in their respective economic sector.

Senator Sotto. Mr. President, there is a perception by people in the business sector, not only by the Gentleman from Zambales, that trade liberalization will ultimately happen. The question is: Do we really have to rush it with this measure?

Senator Magsaysay. I can understand the Gentleman's question, Mr. President. We are looking at the WTO where there are set guidelines and schedules on which sector will be liberalized or opened up. However, the supply of investors will not be limitless. This past decade, they call the year 1990 as the age of the Asia-Pacific Region, as the strongest growing part of the globe. Many of the other countries are getting the bulk—95 percent of the infusion is coming in from the United States, Europe and Japan—but only 5 percent is coming into our shores.

So it is important that we further make it easier for foreign investors to put their capital and knowledge in the country. Otherwise, as I said earlier, we might as well kiss our present

satisfactory growth goodbye if we do not keep on honing or sharpening our attractions for these foreign investors, Mr. President.

Senator Sotto. Mr. President, there are just two other points that I would like to ask. But before that, just a clarification.

During our previous interpellation, Mr. President, Senator Drilon, in answer to this Representation's question, stated that the redefinition of the term "Philippine national" will now allow former Philippine nationals to engage in other business activities previously reserved only to actual citizens. However, when I checked the records in a previous interpellation by Senator Enrile, the Sponsor categorically stated that these former Filipinos cannot engage in retail trade because the law on retail trade has not yet been amended.

May we ask for a clarification on this issue. What is the real intent of the provision redefining "Philippine national" and what are the legal implications of such an amendment? What is the categorical answer there, Mr. President?

Senator Magsaysay. The answer here, Mr. President, is that under the Negative List A, those that are, through the Constitution, reserved for Filipino citizens and the special laws like the Retail Trade Act, these natural-born Filipinos but already foreign citizens cannot practice their profession and cannot go into these ventures that are protected under the Constitution and by special laws in those respective categories.

Senator Sotto. Therefore, the distinguished Gentleman is maintaining his answer to Senator Enrile and Senator Drilon's answer which does not jibe with the Gentleman's answer, Mr. President.

Senator Magsaysay. Is the distinguished Gentleman asking specifically about retail trade?

Senator Sotto. No, Mr. President. I was asking about the redefinition of the term "Philippine national." And as I said, we browsed through the records, and Senator Drilon said, in answer to one of this Representation's questions, that it will now allow former Filipino citizens to engage in other business activities previously reserved only to actual citizens. That is how we saw the records, and it does not jibe with the distinguished Gentleman's answer to Senator Enrile and his answer to this Representation now.

Which is which? We would just like to have a very categorical answer on this. Can they engage in retail trade or not?

Senator Magsaysay. Will the distinguished Gentleman

repeat his question?

Senator Sotto. We would just like to know if these Philippine nationals are allowed to engage in retail trade as defined in Senate Bill No. 1399.

Senator Magsaysay. They are not. They cannot be allowed under this Foreign Investments Act because under Negative List A, the Retail Trade Law is a special law that is reserved only to Filipino citizens in the practice of retail trade.

Senator Sotto. We thank the Gentleman for that answer, Mr. President.

Let me move on to the second to the last point. On the removal of the three-year period requirement, Mr. President, why is this three-year period considered by the Sponsor and by the business sector as mentioned, a stringent condition? Is the distinguished Gentleman removing the three-year period?

Senator Magsaysay. I am sorry, I did not get the Gentleman's statement.

Senator Sotto. As I said, I would like to move on to another issue of the bill. This is the issue on the removal of the three-year period requirement. I would just like to find out if the Sponsor and the business sector truly believe that this three-year period is a stringent condition.

Senator Magsaysay. Mr. President, this is one of the original amendments proposed by NEDA and DTI. I believe this is quite stringent because if a foreigner comes in and wants to export at least 60 percent of his production, he should not wait for three years before he can do so and register as an exporter under this provision.

Senator Sotto. May we know if the Sponsor has been informed on why this condition was originally imposed under Republic Act No. 7042? Was this not meant as a safeguard to ensure that domestic market enterprises can sustain exports of at least 60 percent of its products, Mr. President?

Senator Magsaysay. The truth of the matter, Mr. President, is that when a foreigner comes into the country to engage in export manufacturing or export trading, he has definite plans to go into the business immediately. The three-year provision before he can shift into export accreditation is a disincentive. I would not like to be in his shoes in that if he comes, let us say, to Manila he still has to wait for three years to do business. He can just as well go to Hong Kong or Taiwan or Thailand, and right there and then manufacture and export as soon as he can without the three-year time condition.

Senator Sotto. So, upon removal of this requirement, upon passage of Senate Bill No. 1399, what does the Sponsor think of the effect of this amendment?

Senator Magsaysay. I would expect that the amendment that the Gentleman is referring to will now be a source of further interest as far as former Filipinos or natural-born Filipinos of different citizenship are concerned, and also foreigners themselves to have a second look at the Philippines as a place wherein investors are assured of simpler rules and regulations and less red tapes and less restrictions.

In doing so, we might be able to increase the capital that is coming to Asia; increase that to 5 percent or so. Make it 8 percent or 9 percent. That will, of course, generate a lot of employment and enterprises in our shores, and give opportunities to our young people to practice their professions or their skills.

Senator Sotto. Let me move on to one final point in winding up my interpellation with the distinguished Gentleman.

On the reduction of the minimum paid-in equity requirement for small and medium-size domestic market firms and export enterprises, may we know again, Mr. President, why we need this? Why we need to do this?

Senator Magsaysay. Is the Gentleman referring to the small enterprise?

Senator Sotto. No, Mr. President. I am particularly referring to the reduction of the minimum paid-in equity requirement.

Senator Magsaysay. The reduction of the minimum paid-up as mentioned earlier, from \$500,000 to \$200,000, is to allow easier entry of business to the Philippines.

For basis of comparison, Mr. President, in Hong Kong, one can start a corporation with as low as even a thousand dollars and just put his nominees. One does not even have to be there but he can incorporate in Hong Kong. This is also true in other so-called financial haven like Chin Chow, even Panama. So we are trying to make it easier for the Taiwanese small enterpriser or the Hong Kong resident who wants to look at the Philippines, other than Canada and the United States this coming 1997, that we are investor-friendly.

As I said earlier, that is still a large capital because again in America, if one puts up a corporation that is worth \$10,000, he can start a business. A Filipino can go there, whether he is a TNT or a legitimate entrant, he can put up a corporation and do business. That is why it is called "the land of opportunity" or

"milk and honey." For one to do business in America, they do not question whether one is a Filipino TNT or not.

In our own country we are putting up so many restrictions; that is why we are driving away a lot of potential investors who want to establish their enterprises and do businesses here. We are attracting, Mr. President, a lot of big companies like Hewlett-Packard, or IBM, Microsoft but these are people who can afford an SGV or a Joaquin Cunanan auditing firm.

But when we have small foreign entrepreneurs from Taiwan or from Hong Kong who can only afford \$50,000 or \$100,000 or \$200,000 for a start, we are shutting them out. These are the people who are enthusiastic to have their enterprises or their businesses grow. And they are exactly the ones we are trying to invite to our shores in conformity with what is also happening with our neighbor countries for us to be competitive, investment policy-wise.

Senator Sotto. Not that I am against it, Mr. President, \$500,000 is approximately P13 million or less, but \$200,000 is about a little over P50 million more or less.

Are we not modifying the meaning of small and medium-size enterprises by doing this, by the reduction, as these are supposed to be reserved for Philippine nationals only?

Senator Magsaysay. Actually, Mr. President, in the classification of small and medium-size enterprise—small enterprise is P5 million and lower, and above P5 million up to P60 million is medium enterprise. That is why the main Author of this bill and I agreed that we increase it a little, from the original DTI version and the House version of \$150,000 to US \$200,000 paid-up capital to conform with the definition of small enterprise.

Senator Sotto. Mr. President, we wish to thank the Gentleman for his patience and for his answers. We will just await for the period of individual amendments to probably incorporate some of these amendments that we are thinking of to remove the apprehensions that we have on this bill.

Thank you.

Senator Magsaysay. The Gentleman is welcome, Mr. President.

Senator Mercado. Mr. President.

The President. The Majority Leader is recognized.

Senator Mercado. Mr. President, before we call on our next interpellator, may I just simply acknowledge the presence

of Mr. Emilio Advincula—this is the honest taxi driver who is with us. [Applause]

Senator Tatad has filed Resolution No. 315 commending Mr. Advincula for his exemplary act of honesty. We appreciate his presence, and we would like to acknowledge his visit to the Senate.

Mr. President, to continue our interpellation, may I ask that we recognize Senator Coseteng to interpellate the Sponsor of the measure.

The President. Senator Coseteng is recognized for purposes of interpellation.

SUSPENSION OF THE SESSION

Senator Mercado. Mr. President, may I ask for a suspension of the session.

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

It was 5:41 p.m.

RESUMPTION OF THE SESSION

At 5:42 p.m., the session was resumed.

The President. The session is resumed.

Senator Coseteng. Mr. President, will our Colleague from Zambales yield for a few questions?

Senator Magsaysay. Willingly, from the beauty queen from Iloilo, Metro Manila, and Negros, Mr. President.

Senator Coseteng. Mr. President, at the outset, I would like to extend my congratulations to our Colleagues: Senators Magsaysay, Drilon, Macapagal, our esteemed Majority Leader Senator Romulo, and the members of this Chamber's Committee on Economic Affairs for their sponsorship of this measure.

Their concern for increased investments are indeed laudable, and I believe all of us here are of the same mindset: to increase investments in the country thereby providing more of our citizenry with jobs.

However, I would like to ask a few questions in order to clarify some issues. Mr. President, on the issue of the constitutional provision, Section 19, Article II of the 1987 Constitution, it is provided that: "The State shall develop a self-reliant and

independent national economy effectively controlled by Filipinos." Is this true?

Senator Magsaysay. That is correct, Mr. President.

Senator Coseteng. Mr. President, am I also correct in assuming that the term "Filipinos" as used in the constitutional provision I just mentioned, refers to citizens of the Philippines as defined under Section 1, Article III of the Constitution?

Senator Magsaysay. That is true, Mr. President.

Senator Coseteng. Mr. President, is it also correct to say that natural-born Filipinos who have chosen to acquire a different nationality have forfeited their Philippine citizenship, and under our own laws and under international law are no longer considered Filipinos?

Senator Magsaysay. That is true, Mr. President.

Senator Coseteng. Mr. President, the bill under consideration contains three lists—A, B and C. May I know how many industries fall under these three lists, and what percentage of the Philippine economy do they represent?

Senator Magsaysay. That is a very difficult question to answer in terms of quantifying each Negative List. However, if the Senator from Iloilo would like me to go through the Negative List, I will certainly do so.

Senator Coseteng. Mr. President, it is not to go through the Negative List, but rather, maybe a ballpark figure of how many industries fall under each of these Negative Lists A, B and C.

Senator Magsaysay. I am not equipped at this moment to answer such a question, Mr. President, because I do not have the data with me nor with my staff. But I can certainly state that most of the business activities that are reserved under the Constitution, like mass media, retail trade, cooperatives, mining, utilization of marine resources except deep-sea fishing, and rice and corn, are still not accepting foreign equity. Those on private recruitment, whether local or overseas, may accept up to 25 percent foreign equity.

Advertising may accept up to 30 percent foreign equity under the Constitution. Exploration, development and utilization of natural resources may accept up to 40 percent foreign equity. These are on Negative List A, Mr. President.

Senator Coseteng. If I may interrupt our Colleague, Mr. President. It is not the itemization of the categories that fall under these individual lists that I would like to find out. It is the

number of industries. But as the Gentleman has already said that he did not have these statistics, may I be allowed to go to my next question.

What percentage of the entire Philippine economy do these industries represent? In other words, those industries or establishments under Lists A, B and C, in effect, comprise what percentage of the entire Philippine economy?

Senator Magsaysay. I am sorry, Mr. President. I do not have the figures of the very erudite questions of the Senator from Iloilo. However, may I attempt to make a stab.

As far as the whole economy is concerned, I do not think that more than 20 percent of the economy is being practised or engaged by international or foreign nationals. I feel that even these international companies, like the oil companies—assuming Shell and Caltex, which are international oil companies—or Procter & Gamble, and Unilever, these are foreign companies, but 99 percent of their personnel and management are Filipino nationals. I feel that not more than 20 percent are dominated or controlled by foreigners, Mr. President.

Senator Coseteng. Mr. President, just to rephrase the question. It is not my intention to find out the percentage share of foreign investors but rather how much of the Philippine economy is represented by the industries in these Lists A, B and C. It must be more than 20 percent because Lists A, B and C, in effect, constitute a broad spectrum, and I am sure that our Colleague from Zambales has, just as all of us have, copies of these Lists A, B, and C. From the profile, it is shown that, in effect, these Lists A, B, and C occupy almost the entire gamut of the Philippine economy.

The next question that I have, Mr. President is, how much income do these industries, under each classification, collectively share? Since we are saying that these Negative Lists comprise almost the entire spectrum of Philippine business, then we would like to know, and perhaps our Colleague from Zambales can provide us information, on how much income, under each classifications, these industries share.

Senator Magsaysay. It is very difficult for me to give a good answer now to the Lady Senator from Iloilo and Quezon City. As an example, Mr. President, this noon I was in the opening of the Philippine Retail Association at the PICC. The Secretary of the Department of Trade and Industry, Mr. Roy Navarro, in his speech, mentioned that the Philippine Retailers Association has a total gross sales in 1995 of over P200 billion which, he mentioned, represented 12 percent of the gross national product of the country. It employs 1.8 million of Filipino nationals or citizens. So retail trade is one of those in

the List A that, at this time, bans foreign nationals. These are all Filipinos.

Then, there are the cooperatives which are composed of 99.9 percent Filipinos. Cooperatives will certainly easily be 3 percent of the Gross National Product.

We have mass media. We are looking at the broadcasts, television, radio, prints and magazines, print media, of course. Again, this is 2 percent or 3 percent of the national economy. So when we look at this List A, most of these are big economic activities of Filipino corporations, Mr. President. What will remain is not much for foreigners to come in. That is precisely why we are making it a little bit easier for them to invest in our country in businesses that are not banned according to the Constitution and specific laws.

Senator Coseteng. Mr. President, I would like to go back to the first premise that I had. Quoting the Constitution and stating that "The state shall develop a self-reliant and independent national economy effectively controlled by Filipinos."

Since these Filipinos who have already forfeited their Philippine citizenship and have now acquired a different nationality are going to be allowed or since they are going to be allowed to come in, would this not make the proposed bill unconstitutional since it would place our economy under the control of foreigners, considering the fact that former natural-born Filipinos are no longer considered citizens per the constitutional definition?

Senator Magsaysay. Mr. President, I do not believe that there is any constitutional infirmity in this bill that we are presenting. The bill that we are now discussing redefines the term "Philippine nationals." The natural-born citizens would fall under the category of those who can now engage in the areas of investments provided for in the existing law.

Senator Coseteng. When our Colleague from Zambales had answered earlier on the third premise that I mentioned, when I asked if it was also correct to say that natural-born Filipinos who have chosen to acquire a different nationality have forfeited their Philippine citizenship and under our own laws are no longer considered Filipinos, the answer of our distinguished Sponsor was "yes" to that particular premise.

Is that not a conflict now since we are going to allow natural-born Filipinos who have chosen to acquire a different nationality, having forfeited their Philippine citizenship and under our own laws, are no longer considered Filipinos? If we allow them to participate in these business activities, if we allow them to come, in effect, we may be put in a situation where our economy

would be under the control of foreigners since these Filipinos, as the distinguished Sponsor earlier answered in the affirmative, have lost their Philippine citizenship and are presently not Filipino citizens anymore.

Senator Magsaysay. Mr. President, I understand the statement of the Senator from Iloilo. We are not amending the definition of what is a Filipino citizen. What we are amending is the definition of a "Filipino national." This is the definition to define the distinction between a "nationality" and a "citizenship."

When we say "Philippine national" or the nationality of a person, it is the status created by birth or naturalization or by treaties between States which makes a person the member of an independent or autonomous political community.

"Citizenship," in the decision of the Supreme Court in the case of *Roa v. Customs*, is defined as the status of being a member of a civil state, possessed with all the rights and privileges of a citizen. It is a term of municipal law that denotes position with a particular State of full civil and political rights, subject to special disqualification such as minority, sex, etcetera. So, we are defining Philippine nationals as far as their activities are under the Foreign Investments Act.

In fact, no less than the Senate President made the proposal that we not define but instead have a new section in defining the Philippine national, which the Committee will accept.

The President. May the Chair make a clarification. When we speak of a national and a citizen, both connote membership in a political community. Both of them connote allegiance to a common sovereign. But citizenship is always followed with the full exercise and enjoyment of civil and political rights; nationals are not so.

That is why during the American regime, the Filipinos were considered as citizens of the Philippines but at the same time American nationals. Because in both instances, Filipinos owe allegiance to a common sovereign, which is the United States. Although as citizens of the Philippines we were entitled to the full exercise and enjoyment of civil and political rights, on the other hand, we do not enjoy the same as American nationals.

Precisely, my amendment is not to make a definition of "Philippine nationals," but only to grant former citizens of the Philippines who lost their Philippine citizenship and their children through succession, the same rights as citizens of the Philippines in the exercise and enjoyment of economic activities, except those reserved exclusively by the Constitution to citizens of the Philippines. And that makes a great difference.

For the record, I would propose this amendment on page 1. Delete the whole subparagraph of Section 3(a), lines 8 to 14; and on page 2, between lines 29 and 30, insert a new paragraph which shall read as follows: "FOR PURPOSES OF THIS ACT, A NATURAL-BORN FILIPINO WHO LOST HIS PHILIPPINE CITIZENSHIP BY ACQUISITION OF ANOTHER CITIZENSHIP AND HIS CHILDREN THROUGH SUCCESSION SHALL ENJOY THE SAME RIGHTS AS CITIZENS OF THE PHILIPPINES IN THE EXERCISE AND ENJOYMENT OF ECONOMIC ACTIVITIES EXCEPT THOSE RESERVED EXCLUSIVELY BY THE CONSTITUTION TO PHILIPPINE CITIZENS."

As a consequence of that amendment, if accepted by the Sponsor and approved by this Body, then we have to make appropriate changes in the term "Philippine nationals" as used in paragraphs (3), (4), and (5) of the same section.

Senator Magsaysay. That is very clear, Mr. President. Thank you very much. This should be adopted by the Committee.

The President. Thank you.

Senator Coseteng. Mr. President.

The President. Senator Coseteng is recognized.

Senator Coseteng. Mr. President, just to further clarify, if I may.

If this amendment is accepted and be made part of the entire law, I will still go back to the first premise, as we define it, "Philippine nationals who have lost their citizenship and are now no longer Filipino citizens." By allowing this particular category of persons to engage in business as provided for in this bill, will we not eventually be running counter to the constitutional provision that the State shall develop a self-reliant and independent national economy effectively controlled by Filipinos? Because, as the Gentleman has mentioned, we are not going to call them Filipinos; they are not Filipinos. And by not being Filipinos, would they not be considered, in effect, as foreigners?

The President. If that is addressed to the Chair, the answer of the Chair is as follows: There is no transgression of the constitutional provision cited by the Lady Senator because we are talking of the entire economy. That is what the Constitution provides—the whole economy should be under the control of Filipino citizens. And yet, insofar as these privileges granted to natural-born Filipino citizens, that is only a miniscule part of the economy that is referred to in that provision of the Constitution.

It is too much to say that with this section, then effectively the control of the entire economy of the country is no longer in the hands of Filipino citizens.

Senator Coseteng. Thank you, Mr. President.

Based on the explanation given by the President earlier, would it also clarify or perhaps make more specific Section 1, paragraph (a), subparagraph (3) of the proposed bill which reads: "A domestic partnership or corporation wholly owned by PHILIPPINE NATIONALS: *PROVIDED*, THAT A PARTNERSHIP FORMED FOR THE EXERCISE OF A COMMON PROFESSION SHALL BE WHOLLY OWNED BY CITIZENS OF THE PHILIPPINES IN ORDER TO BE CONSIDERED A PHILIPPINE NATIONAL."

If I am not mistaken, Mr. President, we are trying to define "Philippine national," so that in this particular provision, the words "Philippine national" also form part of the definition. It is rather confusing as we are really unable to define "Philippine national" in this manner.

May I know, Mr. President, the meaning of the term "Philippine national," as cited earlier. Because, precisely, the term "Philippine national" is a term we are trying to define. In this particular case, it forms part of the whole provision.

The President. If the Chair has its own way, it will never use the words "Philippine national" because the amendment to this provision, in the form of a new paragraph, will already accomplish the very purpose and, therefore, not involve us in so many legal inconsistencies between a citizen and a national.

That is why I said that the whole section probably needs to be adjusted if the definition proposed by the Chair is accepted by the Author and adopted by this Body. I can see the difficulty of many of our Colleagues because that brings us into a lot of legal controversies and legal inconsistencies because the very concepts are really at war with each other.

Senator Magsaysay. Thank you, Mr. President. The acceptance by the Committee of the proposed amendment of the Senate President will render that provision moot and academic. And by getting away from the controversy of redefining "Philippine national," the Author of that particular provision—to help our overseas contract workers and the *balikbayans* to once again invest and show interest in their country—is going to accept it. He has shown his indication.

The question of the Lady Senator from Quezon City and Iloilo, of course, should have already been answered by the Senate President's statement.

Senator Coseteng. Just to go to another point, Mr. President. Since the intention of this bill is to attract more investments, mostly from former natural-born Filipinos, would the Gentleman be able to provide us with an estimate of investments that we may expect or, maybe, an enumeration of the industries where they would most probably invest in?

Senator Magsaysay. Thank you, Mr. President. In 1994, the United States is the Philippines' number one investor with a total investment of almost P18 billion.

Senator Coseteng. Mr. President, are these investments of natural-born Filipinos who have lost their citizenship?

Senator Magsaysay. There is no discrimination here; I mean, there is no further delineation here. These are foreign investments from the US. With the entry of Fil-American investments, the US investment of almost P18 billion is projected to grow at a modest estimate of around 20 percent, at least, every year for the next few years. According to the Filipino-Americans in the US, these are investments from Honolulu, Hawaii; Santa Clara, California; Tacoma, Washington; Salt Lake City, Utah; Washington D.C.

The areas that they have shown strong interest are the following: banking and finance, food processing, structural engineering and consultancy services, computer software and other computer-related products, construction and building products, high technology, power generation, agriculture business, electrical/electronic products, medical diagnostic centers, infrastructure and, of course, the ever popular real estate development, which includes tourist resorts, residential and commercial condominiums, hotels and other real estate developments.

Senator Coseteng. Mr. President, do we have studies to show that we, in fact, need additional investors who are not Filipino citizens to invest in the areas, for instance, of construction industry, medical centers or real estate development, in food-processing or in banking? Are there going to be mechanisms by which we could ensure that these investors will indeed invest in areas where we lack capital or we lack investments? If they are going into investments where Filipinos are currently engaged in, will this not be a process of crowding out our own investors?

Senator Magsaysay. Precisely, Mr. President, we are leaving that provision of a Negative List C so that there will be no overcrowding on certain economic activities. The safety net there is, the affected Filipino practitioner may go to the NEDA and make representation that that certain economic activity will be included in Negative List C.

Senator Coseteng. Mr. President, most foreign investors, that we are usually able to attract, invest in portfolio investments or short-term investments that can easily be withdrawn. And very few investors really decide to come in for the long term by, let us say, building factories and providing employment opportunities.

May we be given some information as to the nature of investments that we have so far been able to attract, and how much of these are in portfolio investments?

Senator Magsaysay. Mr. President, investments that have been coming in are the following: public utilities, petroleum, metals, machinery, construction, energy-related chemicals, wood and paper, tourism, electrical, electronics, automotive, processed food, mining, fishery, textiles, wearables, including garments, of course, agriculture, synthetic resins, and others. These are investments by industry sector.

As mentioned earlier, when the Gentleman from Cebu, Senator Sotto, asked about the same issue, the actual number of corporations that have invested between December 1991 when the law was first implemented up to the end of December 1995, last year, was 1,041 corporations that put in P13.155 billion. The bulk consisting of 447 are in manufacturing and 360 are in financing, insurance, real estate, and business service.

The Lady Senator mentioned that very few are long term—mining and quarrying, 22; electricity, gas and water, 40; wholesale, 95; transportation, storage, and communications, 30. But the bulk consisting of 447 enterprises in manufacturing is almost 45 percent of the total. And 360 or about 33 percent of the total is in finance, insurance, real estate—real estate is long term—and business services. So, almost about 75 percent is in manufacturing, real estate, finance, insurance, and business.

Senator Coseteng. Mr. President, I would like again to ask a question for clarification. Are these foreign investments or are these investments of natural-born Filipinos who have now acquired a different nationality? That, in effect, is already allowed for these foreigners to come in. I think we are simply specifying an additional category of persons who would be allowed to invest here, and this category is natural-born Filipinos who have already acquired a different nationality, thereby having forfeited the Philippine citizenship.

So the numbers that have been mentioned by our Colleague from Zambales represent the total foreign investments, or are these specifically investments that we, in fact, would like to allow into the country?

Senator Magsaysay. These figures, Mr. President, are

covered under the present law which is yet to define Philippine nationals or natural-born Filipinos but are already considered foreign citizens. This list is a list of those who have come in under the present law, the Foreign Investments Act of 1991 or Republic Act No. 7042.

This does not separate the former Filipinos or the Americans, the British and the other nationalities. But with these amendments, with these provisions that we are now trying to promote in the law, we will certainly see, if the law will be passed, that such Filipinos born of different citizenships will positively react and finally put in their capital, which they have actually been putting through their families, wives or husbands. They themselves will come and practice their profession and do business in their own former country, Mr. President.

Senator Coseteng. Mr. President, the reason why I ask these questions is, frankly, I have some apprehensions about this bill. I wanted to find out if we already have enough data or statistics to show that the passage of this bill into law will, in fact, attract them by the numbers. That is why I asked whether we already know what kind of investments they have promised to make and, so far, the indications of what their areas of investments are going to be. The only reason I asked these questions is, it is not clear that allowing them to come in would generate the kind of investments that we hope it to be.

Mr. President, if we approve this bill, would there be a reduction in the unemployment rate? If so, would the Gentleman know by how much? Does the Gentleman know that the investments that they are going to bring in will automatically be creating jobs and by the volumes that we expect?

Sometimes, money coming into the country does not always guarantee the creation of jobs. They can be left to play the stock market, withdraw their money the minute another bomb goes off somewhere, or they may be just sunk into speculation, as the Gentleman mentioned, in the development of condominiums or real estate development.

How are we assured that these investments that they are going to bring in will actually create jobs? Do we have statistics to show how much it would cost to create one job and how much of their money coming in would be involved?

Senator Magsaysay. Thank you, Mr. President. I can understand the concern of the Lady Senator from Iloilo.

In terms of the capital required to generate one job, the NEDA has defined that we need P100,000 to back up one employee. In the projection of the potential employment that the Lady Senator from Iloilo is asking about, under the Foreign

Investments Act, from 1996 to the year 2000, in five years, these are based on the actual, from 1991 to 1995. We have projected this as close as possible that for the year 1996 under the Foreign Investments Act, in the law that we are attempting to amend to make investing in the Philippines more attractive, there will be 80,508 new jobs to be created. Do not ask me about the aim. These are all parametrics.

In 1997, next year, this will put in another 99,131 new jobs to be generated. In 1998, there will be 117,354, plus or minus; in 1999, there will be 136,377; in the year 2000, by the 21st century, there will be 154,999. I do not have the total of these five years, but I would feel that this is roughly about 600,000 new jobs due to the Foreign Investments Act that we are trying to make more in tune with reality in the region.

Senator Coseteng. Mr. President, at the rate of about 800,000 persons eligible for work, that Filipino citizens who are ready to be absorbed in the job market are unable to find work every year, in five years, there should be four million jobs that we will be able to create.

If the entire Foreign Investments Act would generate, as our honorable Colleague from Zambales computed, something like 600,000 jobs in five years, would this not be a rather dismal figure, considering that the Foreign Investments Act is one of the pieces of legislation that was looked upon by the administration that will provide for—if I am not mistaken, the estimates everytime we hear about job generation run into millions of jobs a year. So, if the entire Foreign Investments Act would only be able to provide an average of 80,000, 90,000 or 100,000 jobs a year, that means the entry of natural-born Filipinos who have lost their citizenship in terms of job creation would be far less than the total jobs as estimated by our Colleague from Zambales. Is that correct, Mr. President?

Senator Magsaysay. That is true, Mr. President, but this is still about 10 percent or more of the total job opening required every year. This is just under the Foreign Investments Act.

We have to understand that the bulk of the job generation belongs to the Philippine economy per se, the strength of the economy and not so much on the investments of foreign investors. This is just one part of the whole, Mr. President. We get a little here, a little there, a little somewhere and these all add up in trying to comply with generating 800,000 new jobs a year for those who reach the age of finding work and those who have graduated from college, technical schools and other institutions.

Senator Coseteng. Mr. President, under the proposed bill, List C shall contain the areas of investments in which existing enterprises already adequately serve the needs of the economy

and the consumers, and therefore, perhaps do not require further foreign investment. However, under this bill, despite the fact that there is no longer any need for foreign investments in these areas, former natural-born Filipinos would still be allowed to invest in these areas. May I ask for a clarification on this. Is this correct?

Senator Magsaysay. Is the Lady Senator referring to List C?

Senator Coseteng. That is right, Mr. President.

Senator Magsaysay. List C is the list that will give the safety net to Filipino businessmen if they feel unduly threatened by foreign investors coming into the economy. This is the safety net that we are keeping in the law, Mr. President. List C will stay as a venue and an alternative for any Filipino who feels threatened that his trade or industry is going to be overloaded with a lot of business practitioners in that industry.

Senator Coseteng. Do we take it to mean that they would not be allowed to come in to invest under this list?

Senator Magsaysay. Yes, of course, Mr. President.

Senator Coseteng. Mr. President, when the Foreign Investments Act was being deliberated on in the Senate in the Eighth Congress, there were probably several projections given as to the amount of investment which could be expected. May we know how these projections now compare with the actual figures?

Senator Magsaysay. Mr. President, these are economic projections based on several factors. The usual inputs are of course the past, what has happened since 1991 which we have mentioned earlier; that almost P13.155 billion has been infused into our economy through the Foreign Investments Act.

So, these are merely projected with certain factors like the growth of the economy, the interest of other countries because the country is already on its way into strongly sustained economic growth as what is happening in Hong Kong, in China; that mainland China is no longer as attractive as they say; and what is happening in Vietnam.

These are all put together in some kind of factoring in and the NEDA will come up with this projection based on so many inputs.

At this juncture, the Senate President relinquished the Chair to Sen. Raul S. Roco.

Senator Coseteng. So may we know how these projections compare with the actual figures, Mr. President?

Senator Magsaysay. I do not have the projections from 1991 to 1995. These are actual. I do not know if my backup here has the projection for 1991, six years ago, but these are actual. In 1991, three came in because this was implemented in December 1991; in 1992, 197 corporations and sole proprietorships came in; in 1993, 197; in 1994, 320; and in 1995, 324.

But investment-wise, peso-wise, in 1994, P3.945 billion came in; in 1995, although 324 came in, almost the same as the 320 the year before, but the capital doubled to P6.385 billion between the last two years.

Senator Coseteng. It means we really cannot say when this bill was being deliberated upon in the Eighth Congress, whether these projections actually were met by the actual figures of investments that came in. Do we have that data?

Senator Magsaysay. I do not have that, Mr. President, but I can certainly say that the new administration of President Ramos came in June 1992, and since 1993, 1994 and 1995, there has been a steady increase of interested foreigners wanting to invest in our country.

Senator Coseteng. Mr. President, do we have a compilation of figures of companies that came in and had closed down and left vis-a-vis those that had come in in the same period of time that actually stayed?

Senator Magsaysay. I do not think I have the figures of those companies that have left, Mr. President. But that is a very good question because we have to look at the balance sheet, the assets and liabilities.

However, the net effect is an impressive growth in the economy—I believe in 1995, the GNP was 5.7%; in 1994, it was 5%; and in 1993, it was 4.5%. So it seems that the present administration is doing economically right with the sustained growth of our GNP from 1993, 1994 and 1995. But I do not have the list of companies that have closed shop because these may be gleaned from the Securities and Exchange Commission.

My personal experience is that when a company stops operating, usually the corporation continues to exist but it is already a dead corporation. It is no longer working so even the SEC will have a hard time getting an accurate record of all of these, Mr. President.

Senator Coseteng. Mr. President, the reason also why I asked that is, we would like to know whether these are permanent or long-term investments or if they were basically portfolio investments for a short term. As we would like to be

more informed about this matter, I thought I would ask that question.

Mr. President, since many of these former Filipinos are still maintaining close ties with their families, friends or relatives in the Philippines, would it make any difference if they were to course their investments through their relatives and friends rather than doing it themselves, considering that they have now chosen to live in another country and renounce their Philippine citizenship? Would it not be more practical for them to invest through their family members here?

Senator Magsaysay. That may be correct, Mr. President, but, again, empathizing with the Filipino who has been abroad, who is more of an individualistic person, and I know for a fact that quite a lot of them are afraid to give their capitals to somebody else, even if they are relatives, not so much because of mistrust but because of the fact they will be away while their funds are in the Philippines. I am sure they would prefer to come back here with their funds, so that they can undertake the economic activities that will give more value to these funds and also make their businesses grow in the Philippines.

Senator Coseteng. Does the Gentleman mean that for them to invest here, it is going to be a prerequisite that they should stay here to watch over their investments?

Senator Magsaysay. That is not in the amendments that we are proposing, Mr. President. They can be absentee investors. It is not a prerequisite.

Senator Coseteng. Since the Gentleman mentioned earlier that they perhaps would not entrust a sizable amount of money to their relatives or their friends if they are not going to stay here, what investments do we really expect to come in under those circumstances from these natural-born Filipinos who have lost their citizenship?

Senator Magsaysay. Precisely, Mr. President, we are inviting them and their capital to come here as Philippine nationals. They have to come here because if they will just send their capital here, how can they do business? They cannot do business being on the other side of the globe. Unless it is just plain investing in IPO or in the stock market or in real estate.

But the definition of doing business in the Philippines under the Foreign Investments Act is the active, dynamic exercise of economic activities that would give value to the capital which they are bringing in. And also the expertise that they have acquired while overseas—their capital, the management, the technology and the knowledge that these former Filipinos and other foreigners are going to bring into the Philippines.

Senator Coseteng. Mr. President, if they are not going to be present in the country and something goes wrong or laws are broken, how do we bring them to court? How do we charge them? How do we sue them? They are not here. They are not Filipino citizens but they are doing business here.

Senator Magsaysay. If they are not present but only doing business here, I am sure they will have their authorized representative. It could be their sister or their mother or their brother or their friend, and their representative can be sued representing such investors.

Senator Coseteng. So that in effect, the Gentleman is saying that they may be able to get away from breaking some of our laws because they are not at the scene of the crime?

Senator Magsaysay. That is possible, Mr. President. Even the people who are here, who often break the law cannot be caught, what more of those who are there at the other side. These are all possibilities.

The Presiding Officer [Senator Roco]. With the permission of the Gentleman and the Lady, maybe if we can share this information. Normally when a foreign corporation registers, a resident agent is designated who will be receiving summons in case there are suits. Criminal cases may be difficult because they are territorial in character. And so if they are not here, they will in all likelihood not be violating Philippine criminal law. But if the corporation is in violation of Philippine Corporation Law, whoever is specifically involved, may therefore be covered by the fiscal or by the prosecutorial arm.

I thought the Chair will just offer the information because I do appreciate our two Colleagues are—fortunately maybe—not members of the Bar.

Senator Magsaysay. Thank you, Mr. President.

Senator Coseteng. Thank you, Mr. President.

That is really an apprehension because in many situations, foreigners come in and leave at will, leaving even their designated nominees holding the bag. And in this particular case, they are foreign Philippine nationals, they are not considered Filipino citizens, and for all intents and purposes, I guess they are considered foreigners because they are not Filipinos. I just wanted to find out if we could be protected from them.

The Presiding Officer [Senator Roco]. If they are corporations operating in the Philippines, doing business as defined by law, then there will be designated individuals who can receive summons if there are cases.

Senator Coseteng. Mr. President, I would like to find out if enough consultations have been undertaken, especially in the grassroots. Because there seems to be some kind of resistance although it is very quiet.

I have been to several provinces. I have been to different areas, coastal areas, in the Bicol region, in Region VII, in areas where the local townfolk have many relatives who have gone abroad and who have lost their Filipino citizenship. Whenever we ask them this question—because this is not something new, we have this already in the last Congress—“*Ano ang tingin ninyo diyan, na iyong mga dating umalis na hindi na Filipino citizens ngayon, babalik dito para pumasok sa negosyo?*”

There seems to be a lot of resentment. Maybe they are unable to articulate it in a committee hearing or in a press release, but rather, they feel that this is some kind of a threat. As a matter of fact, they do not, for some reason or another, welcome these former Filipinos who are their relatives with open arms as we expect them to. Because they feel some kind of a sense of “*iniwanan kami*”, some kind of betrayal or “*ibana silangayon*”, and they do not really look at them as Filipinos anymore.

They are afraid that because of the tremendous purchasing capability, tremendous investment capabilities of these foreigners—ex-Filipinos in effect—that they could be eaten up. And that in their own areas, in their own small municipalities, in their own small barangays, there is a lot of sentiment against these.

I wonder if these have been reflected formally in the committee hearings because eventually by the passage of a law like this, we can be creating other problems, maybe social problems. Maybe these Filipinos who feel that they can come in and invest because they have money may have threats on their lives because of this deep-rooted sentiment.

I came across a particular case concerning a beach property. The fisherfolk in the area have to walk now all the way to the next barangay to have access to the sea so that they are resentful. And they feel that, “We have been making *tiyaga* here all this time. *Nagtitiyaga kami rito kahit mahina ang kita, kaya iniwanan na ninyo kami. Big time na kayo ngayon, malaki na ang kapital ninyo, pagpasok ninyo rito, papaano naman kami?*”

I would like to articulate that, Mr. President, because as I mentioned earlier, we could be creating problems that we do not see at the moment.

Senator Magsaysay. I can understand the concern of the Lady Senator from Iloilo. I can assure her that there have been public hearings and we have listened. In fact, we have adjusted the administration measure from the DTI and NEDA, and we

tried to do our best to conform somewhat to the concern. That is why the Negative List C remains.

But the Lady should understand that this is an opening economy. Those who have gone overseas, particularly the OCWs, the professionals and the *balikbayans*, are the same people who will give us the aggressive and competitive spirit when they come back because they might be interested to return. They not only bring back their capital, but more importantly their knowledge of what is happening in the global economy.

If we will just listen to those who stayed behind, I am sure those who stayed behind have their reasons and they have their own situations. If we do not give this window of opportunities with proposals to those who went overseas, not because they desire it or because the economy was prostrate during the long term of then President Marcos, this will mean that the Philippine society is a close economy. And a close economy, whether it is in North Korea or in Sri Lanka, will never prosper in the global economy.

I hope that the concern of the Lady from Iloilo will be mitigated because of the total picture of the Philippines and the Filipinos are trying to become more competitive in terms of economic well-being.

Senator Coseteng. Mr. President, just to correct that misimpression. I did not say that we were going to close our economy to everyone in the same way North Korea did or does or that we were not going to allow anyone in. I did not also say that we were excluding OCWs from bringing back their money. I do not know where the Gentleman from Zambales got that point.

We were talking about natural-born Filipinos who lost their citizenship and who are no longer Filipinos. But OCWs do not lose their citizenship. They go abroad, stay six months or two years, whatever it is, and come back as Filipino citizens.

So it is not my intention to block OCWs from investing in our country. I hope this is not the impression that I made in the mind of our Colleague from Zambales.

Senator Magsaysay. I am sorry, I misunderstood the Lady, Mr. President. I was thinking more of the *balikbayan*.

Senator Coseteng. We are talking specifically about natural-born Filipinos who lost their citizenship and are no longer Filipinos, and therefore, they are considered as foreigners. We are not questioning their roots; I am just delving on the status that they presently possess, which is definitely not a Filipino citizen, and that means he must be a foreigner.

I would like to thank the Gentleman from Zambales for his patience and for answering some of these questions. I hope that we could also be furnished with the statistics of the questions that were not answered which, I feel, are important. Maybe, I am still convinced to go along with this bill. It is in the interest of seeking answers to these questions that I asked them, Mr. President.

Thank you, Mr. President.

Senator Magsaysay. I appreciate the questions and the statements of the Lady from Iloilo and Quezon City. These are what we may call the conscience of the Filipino, the overall way wherein we can protect those sectors that cannot protect themselves. The conscience of the Gentle Lady and her heart are in the right place.

I can assure the Lady Senator that I will be open to any individual amendments that she may propose, so that the conscience of the Filipino entrepreneur and the small business will be protected within the context of her desire.

The Presiding Officer [Senator Roco]. The Chair appreciates the discussion.

By the way, when the Gentleman refers to the Lady as Gentle Lady, is that two words or one word?

Senator Magsaysay. It looks like it is one word, Mr. President. It can be two words. She is a gentle person.

The Presiding Officer [Senator Roco]. In the past Congresses, that was under protest. When it was used as one word, it was protested, I think, by Senator Laurel, and the records will show that. He did not want to use the word. So the Gentleman may be advised, following precedents, to use it as two words, if you want to use the word "gentle" as an adjective.

If there is no other interpellation, what is the pleasure of the Majority Leader? Perhaps we can go on to committee amendments, if the Committee Chairman is ready with the committee amendments.

Senator Mercado. Mr. President, there are no other interpellations nor reservations made on this particular measure. I move that we close the period of interpellations.

The Presiding Officer [Senator Roco]. Is there any objection? [*Silence*] There being none, the period of interpellations is hereby closed.

Senator Mercado. I move, Mr. President, that we proceed

to the period of committee amendments, if there are any.

Senator Magsaysay. Thank you, Mr. President. There are no Committee amendments. However, there is an individual amendment that was proposed by the Senator from Mandaluyong City, Senate President Gonzales.

Senator Mercado. Mr. President, considering that the Senate President's individual amendment is a very crucial and critical issue, I suggest that we take this up tomorrow when the other Senators are around.

The Presiding Officer [Senator Roco]. Yes. May we also suggest to the Committee Chairman, with due respect, that maybe the staff should put together all the amendments which we will accept, as Committee amendments. Let us just credit whoever the author may be of the individual amendments, so that tomorrow, we may have a clean, engrossed copy for purposes of discussion.

It will be expedient for both the Committee and our Colleagues who may come in tomorrow. If it can be done also, we may send them to our Colleagues' offices before four o'clock in the afternoon tomorrow. It will behoove the Committee's interest to do so.

Senator Magsaysay. We will do that, Mr. President.

Thank you.

The Presiding Officer [Senator Roco]. What is the pleasure now of the Majority Leader?

SUSPENSION OF CONSIDERATION OF S. NO. 1399

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No 1399.

The Presiding Officer [Senator Roco]. Is there any objection? [*Silence*] There being none, consideration of Senate Bill No. 1399 is hereby suspended.

Senator Mercado. Mr. President, we shall take up tomorrow Senate Bill No. 1284, the special law on counterfeit drugs. We shall be taking up on Thursday the Irrigation Crisis Act. We shall also take up Senate Bill No. 407, the bill increasing the penalty and double indemnity for violation of the prescribed increases in wage rates. Possibly, we shall also take up the Paternity Bill, Senate Bill No. 1032.

ADJOURNMENT OF THE SESSION

Senator Mercado. I move, Mr. President, that we adjourn the session until four o'clock tomorrow afternoon.

The Presiding Officer [Senator Roco]. Is there any objection? [*Silence*] There being none, the session is adjourned until four o'clock tomorrow afternoon.

It was 6:54 p.m.

RECORD OF THE SENATE

TUESDAY, FEBRUARY 27, 1996

OPENING OF THE SESSION

At 4:20 p.m., the President Pro Tempore of the Senate, Hon. Leticia Ramos Shahani, called the session to order.

The President Pro Tempore. The 61st session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

We shall be led in prayer by Sen. Alberto G. Romulo.

Everybody rose for the opening prayer.

PRAYER

Senator Romulo.

In EDSA ten years ago, together with People Power, there was, above all, Prayer Power.

In Fr. Alfeo Nuda's book God With Us, a Jesuit narrates this story on prayer power:

For me it is a sort of composite picture or collage of the sisters/women of the Philippines kneeling before the might of the military symbolized by tanks and armored vehicles saying the rosary on the highway. In the eyes of the sophisticated world of the '80s that is pure stupidity and utter foolishness. But we now know it is the foolishness of God!

On Sunday afternoon, February 22, I went past Camp Crame to visit a group of RVM nuns on N. Domingo and one of the junior sisters complained to me, "We were at Crame this morning but Mother would not allow the junior sisters to go back this afternoon. We're the only ones who cannot go there!"

I looked over her shoulder and saw several figures kneeling in the chapel and asked: "What about them?"

"Oh, those are the old and infirm sisters," she replied.

"What are they doing," I asked.

"They've been there since this morning praying before the Blessed Sacrament..."

What a wonderful lesson in faith!

And who is to say what group was more effective in staying the hand of God and preventing a holocaust on EDSA or Santolan? Was it only the thousands of people walking around EDSA and the camps or was it the many faithful women of the Philippines praying at home and in church?

"More things are wrought by prayer than this world dreams of."

Amen.

ROLL CALL

The President Pro Tempore. The Secretary will please call the roll.

The Secretary.

- Senator Heherson T. Alvarez Present*
Senator Edgardo J. Angara Absent
Senator Anna Dominique M.L. Coseteng.. Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Absent***
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople Present*
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present**
Senator Francisco S. Tatad Present
Senator Freddie N. Webb ****
The President Present*

The President Pro Tempore. With 16 Senators present, the Chair declares the presence of a quorum.

Senator Mercado. Madam President.

*Arrived after the roll call
**On official mission but arrived after the roll call
***On Account of Illness
****On Official Mission

The President Pro Tempore. The session is resumed. The Majority Leader is recognized.

MOTION OF SENATOR MERCADO
(Revised Copy of S. No. 1399 as of Feb. 27, 1996 as the Working Draft)

Senator Mercado. Madam President, we have already distributed clean copies of Senate Bill No. 1399. This is the revised copy as of February 27, 1996. I move that we adopt this as the working draft for our further discussions on this measure.

The President Pro Tempore. Are there any objections to the motion that we adopt as the working draft the revised copy as of February 27, 1996? [*Silence*] There being none, the proposal is adopted.

Senator Mercado. Madam President, I ask that the Sponsor of the bill, Senator Magsaysay, be recognized.

The President Pro Tempore. Senator Magsaysay is recognized.

Senator Magsaysay. Thank you, Madam President. Upon suggestion of the Senate President last night, the Committee has already incorporated the amendments suggested and submitted by the individual Senators in the clean copy we have just distributed. I move that the said copy be made as the basis of consideration, Madam President.

The President Pro Tempore. That has already been approved, as proposed by the Majority Leader. We are using this revised version as of February 27, 1996.

Senator Magsaysay. Furthermore, Madam President, I would like to manifest here that the Authors of these amendments, Senate President Gonzalez and Senator Drilon, are coauthors of Senate Bill No. 1399.

There are also Committee amendments made by the Minority Leader, Senator Angara, and also Senators Webb and Sotto.

The President Pro Tempore. Could the Gentleman repeat the Sponsors and Authors before he tells the Chair who are those proposing the amendments?

SUSPENSION OF THE SESSION

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

The President Pro Tempore. The session is suspended, if

there is no objection. [*There was none.*]

It was 4:47 p.m.

RESUMPTION OF THE SESSION

At 4:49 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

**SUSPENSION OF CONSIDERATION OF
S. NO. 1399**

Senator Mercado. Madam President, with the permission of the Sponsor, inasmuch as we have already adopted this latest version of Senate Bill No. 1399, I move that we suspend consideration of Senate Bill No. 1399.

The President Pro Tempore. What does Senator Magsaysay say?

Senator Magsaysay. I accept the motion to suspend consideration of Senate Bill No. 1399 until next week, Madam President.

The President Pro Tempore. Is there any objection to the motion as accepted by the Sponsor? [*Silence*] There being none, the motion is approved.

**CONSIDERATION OF P. S. RES. NO. 323
(Importation of Luxury Bullet Proof Vehicles
for the APEC Summit Meeting)**

Senator Mercado. Madam President, I move that we consider Proposed Senate Resolution No. 323.

The President Pro Tempore. Consideration of Proposed Senate Resolution No. 323 is now in order.

The Secretary will read only the title of the Resolution without prejudice to inserting into the *Record* the full text thereof.

The Acting Secretary. [Atty. Raval] Proposed Senate Resolution No. 323, entitled

**RESOLUTION INVITING THE SECRETARY OF
FINANCE TO ANSWER QUESTIONS DURING
THE QUESTION HOUR ON THE REPORTED
IMPORTATION OF LUXURY VEHICLES FOR
THE APEC SUMMIT**

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RECORD OF THE SENATE

WEDNESDAY, MARCH 13, 1996

OPENING OF THE SESSION

At 4:30 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 68th session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

We shall be led in prayer by the Minority Leader Sen. Edgardo J. Angara,

Everybody rose for the opening prayer.

PRAYER

Senator Angara.

Almighty God, as we convene this week, rumors of war are abroad.

To our south, evil-minded terrorists are trying to destroy the hope that we have fostered and nurtured over the decades.

The ideal of peace and harmony that Islam embodies is being shattered by the reckless acts of ruthless groups.

We pray, dear Lord, that You will steel the leadership of peace-loving Muslims in their resolve to resist these groups.

To our north, two mighty nations are on the brink of war. Should this erupt into conflict, it will have grievous consequences for our region and our country.

We also pray, dear Lord, that You will stay the hand of those who hold the weapons of war and make them see instead the wisdom of reasoned speech as the only course of action.

Finally, dear Lord, remind our leaders that peace and reason are unquenchable longings in the hearts of men.

Amen.

ROLL CALL

The President. The Secretary will now call the roll.

The Secretary.

Senator Heherson T. Alvarez Present

- Senator Edgardo J. Angara Present
Senator Anna Dominique M.L. Coseteng .. Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Absent***
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present*
Senator Blas F. Ople **
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present*
Senator Raul S. Roco Present*
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb Present
The President Present

The President. With 18 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

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

The President. Is there any objection to this motion? [Silence] The Chair hears none; the reading of the Journal of the previous session is hereby waived and the same is deemed approved.

The Secretary will please read the Order of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1451, entitled

AN ACT AMENDING SECTION 285 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE "LOCAL GOVERNMENT CODE OF 1991",

* Arrived after the roll call
** On official mission
*** On account of illness

are still being prepared for Senate Bill No. 1284, I move that we suspend consideration of said bill.

The President Pro Tempore. Is there any objection? [Silence] There being none, consideration of Senate Bill No. 1284 is suspended.

BILL ON SECOND READING
S. No. 1399 - Liberalizing Foreign Investment,
Amending RA 7042
(Continuation)

Senator Romulo. Madam President, I move that we resume consideration of Senate Bill No. 1399, as reported out under Committee Report No. 49.

The President. Resumption of consideration of Senate Bill No. 1399 is now in order.

Senator Romulo. Madam President, we are now in the period of individual amendments. I ask that the Sponsor of the bill, Senator Magsaysay, be recognized, with the distinguished Gentleman from Camarines Sur and Bohol, Senator Roco, for his individual amendment.

The President Pro Tempore. Senators Magsaysay and Roco are hereby recognized.

Senator Magsaysay. Thank you, Madam President.

The bill, Senate Bill No. 1399, is a very timely piece of legislation once it is passed into law especially now that around us in this troubled region, are sounds of imminent war. Hopefully, it will not happen but there are threats towards peace, that the countries of Taiwan and Hong Kong, and even the other countries are looking at safer haven for investments.

I am also glad, Madam President, that the distinguished Senator from Camarines Sur and Bohol, Senator Roco, and I have sat down a couple of times to harmonize our own points of views on this very important piece of investment legislation.

So, I am open to his proposals, Madam President.

ROCO AMENDMENT

Senator Roco. Yes. Madam President, I thank the Sponsor for the recognition.

We now go back as reserved at the last instance when we were discussing this: Madam President, we reserved page 2 for later discussion.

We now go back to page 2, lines 1 to 11. We had two or three occasions to discuss this with the distinguished Sponsor and we agreed on the following as a separate section.

As a separate section, maybe before or after the section of the amendment, like giving former citizens of the Philippines the right to buy lands. We leave that subject to style so that it will be a separate section and it does not modify the concept of what a Philippine national is. But it will now read as follows, Madam President:

FOR PURPOSES OF THIS ACT, FORMER NATURAL-BORN CITIZENS OF THE PHILIPPINES WHO LOST THEIR PHILIPPINE CITIZENSHIP BY ACQUISITION OF ANOTHER—we can delete "CITIZENSHIP" here as it becomes redundant—SHALL BE GRANTED THE SAME INVESTMENT RIGHTS OF A PHILIPPINE CITIZEN.

We deleted, Madam President "CITIZENSHIP AND THEIR CHILDREN BY RIGHT OF SUCCESSION"—SHALL BE GRANTED THE SAME INVESTMENT RIGHTS OF A FILIPINO CITIZEN, insert the phrase, IN COOPERATIVES UNDER REPUBLIC ACT NO. 6938 IN RURAL BANKS, THRIFT BANKS AND PRIVATE DEVELOPMENT BANKS AND FINANCING COMPANIES UNDER REPUBLIC ACT NO. 5980—I do not have the republic act for rural banks; thrift banks and private development banks, but I can furnish that as a matter of style—BUT SHALL NOT EXTEND TO ACTIVITIES RESERVED BY THE CONSTITUTION FOR FILIPINOS INCLUDING THE EXERCISE OF A PROFESSION.

2. IN DEFENSE, RELATED ACTIVITIES UNDER SECTION 8(B) HEREOF UNLESS SUCH ACTIVITIES ARE SPECIFICALLY AUTHORIZED BY THE SECRETARY OF NATIONAL DEFENSE AND ACTIVITIES COVERED BY REPUBLIC ACT NO. 1180—the title can be completed later on. Republic Act No. 1180 is retail trade—REPUBLIC ACT 5487, AS AMENDED;—because of the security aspect—REPUBLIC ACT NO. 7076—small-scale mining—REPUBLIC ACT NO. 3018—the rice and corn industry—AND PRESIDENTIAL DECREE NO. 449—which refers to the cockpits operation—PROVIDED, FINALLY, THAT RECIPROCAL RIGHTS ARE EXTENDED TO NATURALIZED FILIPINOS IN THE STATE OF THE FORMER FILIPINO CITIZEN WHO SEEKS TO INVEST.

Those are the wordings, subject to style, Madam President.

Senator Magsaysay. It is accepted, subject to style, Madam President.

The President Pro Tempore. Is there any objection to the proposal?

Senator Webb is recognized; and thereafter, Senator Drilon.

Senator Webb. Madam President, I was just going to ask the Gentleman. May I know now the difference of the original bill from that of the amended provisions of Senator Roco? What have these naturalized Filipinos lost as far as the enticement of business opportunities are concerned?

Senator Roco. May I just explain, Madam President. The first effect, by separating this from the definition of Philippine national, is to clarify that this is not a modification of the concept of what a Philippine national is. If that could be improved, then we would improve further. The second effect is, it identifies the investment areas in cooperatives which require nationality; in financing company act, which requires nationality; in the rural banks, thrift banks and development banks, since that is entry of money into the countryside. And that is the restriction.

In all the other laws that we are debating, essentially, they will not be allowed. They will have the same treatment as any other foreigner. They will not be considered Filipino citizens for other investments, like in retail trade, because retail is subject to another debate. In fact, it is going to be probably debated eventually on how we want to put minimums or maximums.

The third part of the amendment, as accepted, is reciprocity provision because it is a good policy to have reciprocal treatment.

Senator Webb. Madam President, with the amendment of Senator Roco, we have specified the cap—that they can only enter in these almost three areas of business opportunities. Earlier, there was an expansion that even in gambling opportunities, they can come in and invest; even in areas where medical technology is necessary, even in drug production. Does this mean that with these provisions now—again, just to make sure—only in these three areas that were mentioned can the foreign Filipino...

Senator Roco. Yes, Madam President. It is a circumscribed field, and there will be no problem of succession. We recognize the sense of loyalty of the first generation of Filipinos who acquired other citizenships. But it may be more difficult to say that the same sense of loyalty can extend to the children who, if they are brought up properly and correctly whether as American, as French or Italian, should be loyal already to the country where they are citizens.

Senator Webb. Madam President, in case of death, for instance, by accident, will the son or daughter be able to take over the business?

Senator Roco. The answer to that, Madam President—in fact, that was one of our problems with the provision—will be governed by the law of succession of the country where the former Filipino is now a citizen.

In other words, if he is an American, he will be governed by the law of succession in the United States, assuming we have recognition of their succession law because it depends on the state. If it is France, in all likelihood, they will have the same succession law because, fundamentally, we have the same Civil Code. So, we probably have equal opportunities in France. If it is Italy, assuming that the Napoleonic Code is also applicable to the Italian Civil Law, then maybe we also have the same opportunities.

But the reciprocity requirement will be critical. Unless they extend the same rights to those who embraced Filipino citizenship, why should we extend special rights to those who have rejected?

So, those are the provisions.

Senator Webb. Is it not true, Madam President, that we can count with our fingers the number of countries that will extend reciprocity as far as succession is concerned?

Senator Roco. I do not have knowledge of that, Madam President. In fact, that was the problem of inserting the law of succession in the original bill because we did not know the extent.

The good thing about reciprocity is, it restricts. Meaning, if those countries are kind to us, then we are kind to them. But if they are not kind to us, regardless of whether there are only two, then why should we extend any rights to them?

Senator Webb. Thank you very much, Madam President.

Senator Roco. Thank you.

The President Pro Tempore. Senator Drilon is recognized.

Senator Drilon. Madam President, just a few questions. Would the amendment of the Gentleman, Madam President, limit the ability of former Filipinos to invest only in those businesses specified by the Gentleman in his amendment? Is that a correct understanding?

Senator Magsaysay. That is not true, Madam President. It will not limit it to those who are specified because there are other laws and decrees that were not mentioned that now the former

Filipino can own and manage and invest in as Filipinos.

Senator Drilon. I am sorry. May I have that again, Madam President.

Senator Magsaysay. The Gentleman is asking if the investment possibilities of former Filipinos are limited only to those that the Gentleman from Camarines Sur had stated.

Senator Roco. May I give a clarificatory answer, Madam President.

Senator Tatad. Madam President.

The President Pro Tempore. Senator Roco is recognized; and thereafter, Senator Tatad.

Senator Roco. The first thing to remember, Madam President, is, the former Filipino citizens will enjoy the same rights as any other foreigner. So, to the extent that we liberalize for other foreigners, they will also enjoy the same rights.

In addition to that, we specifically recognize them as having the same investment rights as any other Filipino in specified fields where there is an entry of investment or there is an entry of money. And those specified fields are in cooperatives.

Why cooperatives? Because in cooperatives, they are all equal regardless of the amount of money. And if a former Filipino wants to invest in a cooperative in Bohol, I think he should be encouraged. In rural banks, that is covered also by other laws; thrift banks, private development banks—this is the request of the Chairman—and also financing companies.

It is not true that it is restricted. There is an expansion of the investment opportunity but in identified areas. In the other areas that we preclude, Madam President, they will be subject to separate discussions because I understand there are, in fact, pending bills on them.

The third area, Madam President, is, reciprocity rights are introduced so that we do not extend to any country what they do not extend to us.

Senator Tatad. Madam President.

The President Pro Tempore. Senator Tatad is recognized.

Senator Tatad. Madam President, I believe what is being discussed is a very important point and we are all trying to follow the discussion. The amendment, it seems to me, is a longish one, and if we heard the Author correctly, he was saying "subject to

style" and the Sponsor accepted it.

Perhaps, for our better evaluation, we should have a copy of the proposed amendment. Because when we say "subject to style," although this has been used and overused in this forum, we are, in fact, leaving words to the discretion of the Chair and we can quibble or disagree on the use of certain words. Perhaps we should have a copy of this proposed amendment, Madam President.

Senator Roco. There is no problem, Madam President, except that we had it written down. It will be typed and submitted.

"Subject to style" really refers to styling. The reason I stated "subject to style" is that originally, it is a long sentence. There are repetitive words like "citizenship" and "former natural born" and I thought it could be cleaned up by way of style. But we will give the Gentleman a copy before it is finally approved on Second Reading, if that is acceptable to the Body.

The President Pro Tempore. We really have not taken any action on the amendment itself, but I believe the comments of Senator Tatad are important. It is, indeed, a very important amendment, and the Chamber would profit from a clear reading of what this very important amendment really would look like. We will, therefore, hold in abeyance the approval of this amendment until we have seen the full text.

Senator Magsaysay. That is acceptable, Madam President.

Senator Roco. That is the only amendment we have. We will have it reproduced now, Madam President.

Senator Enrile. Madam President.

The President Pro Tempore. Senator Enrile is recognized.

Senator Enrile. I would like to propose an amendment, Madam President. But before I do that, I would like to clarify one point.

In the definition of "Philippine national," it includes "a corporation organized under the laws of the Philippines of which at least 60 percent of the capital stock outstanding and entitled to vote is owned and held by a citizen of the Philippines." This would suggest that a corporation fully owned by a Filipino natural citizen organized under the law of Delaware could not be considered a Philippine national, although it can engage in any kind of activity in the country, including the exploitation of those economic activities reserved primarily to Filipinos under the Constitution.

My question is: Should we perpetuate this concept or should we now amend it by removing the phrase "organized under the laws of the Philippines"? In other words, the place of incorporation of the corporation to be treated as a Philippine national would be immaterial for as long as the corporation is fully owned or 60-percent owned by a citizen of the Philippines.

Senator Magsaysay. Is the Gentleman saying, Madam President, that even if the corporation which is 60-percent owned by a Philippine national and is organized in Delaware...

Senator Enrile. As long as it is owned by a Filipino to the extent of 60 percent, it can engage in any kind of business in the Philippines. It can engage in retail trade; it can engage in the exploitation of mineral resources; it can own land; it can engage in fisheries; it can engage in transportation; it can engage in setting up an ice plant. If it has a franchise, there is no limitation.

But in this law, we require that for a corporation to be treated as a Philippine national, it must be organized in the Philippines, under the laws of the Philippines, and it must be owned 60 percent by a Filipino citizen.

What I am saying is that, if a corporation which is 60-percent owned by a Filipino, organized in Hawaii, or in Guam, or in Indonesia, or anywhere in the world, even in Timbukto, under the laws of Timbukto, it can engage in any business in the country.

Senator Magsaysay. As presently worded, Madam President, it has to be registered with our Securities and Exchange Commission.

Senator Enrile. Precisely, that is why I would like to propose the deletion of the phrase "organized under the laws of the Philippines" because I think there are Filipinos abroad—natural-born Filipinos in fact, or citizens of the Philippines abroad—who may organize a corporation under the laws of Delaware, or under the laws of their residence for the moment, provided these people can prove that the corporation is owned by them to the extent of, at least, 60 percent and could apply to come to the Philippines and engage in business and do any kind of business in the country.

Senator Angara. Madam President.

The President Pro Tempore. Senator Angara is recognized.

Senator Angara. Madam President, thank you. With the permission of the two Gentlemen, may I ask one question of the proponent of this amendment, Madam President?

Senator Magsaysay. I yield to the Gentleman from Quezon.

Senator Angara. Would the effect of the Gentleman's amendment, Madam President, not deprive the Philippines of jurisdiction over that corporation?

Senator Enrile. No, Madam President, because when it comes to the Philippines to engage in business, it must submit itself to the jurisdiction of the Philippine government by registering itself; so does a foreign corporation wholly owned by a citizen of the Philippines in order to engage in business locally.

Senator Angara. Yes, but the idea of domesticating, that means incorporating under the Philippine laws, the philosophy behind that is to subject that corporation in all its operations to the jurisdiction of the Philippine authorities. And if we allow a Filipino-owned corporation, say, to be incorporated in Timbukto, as the Gentleman said, or even in any tax-haven places, then the Philippines would have lost jurisdiction over other aspects of the operation of this corporation, except that portion of the operation that is conducted in the Philippines.

Senator Enrile. Madam President, the only thing that would be affected would be the authority of the stockholders to amend the articles of incorporation, to increase the capital, to increase their borrowing—those items that are authorized under the law of incorporation, or the length of time that the corporation will last, live or exist. But as far as business is concerned, as far as taxation is concerned, as far as regulations are concerned, the corporation will be subject, in all respect, to the jurisdiction of the Philippine government.

And as far as the rights of the creditors are concerned, to the extent that the assets are in the Philippines, these assets will be subject to the control and jurisdiction of the Philippine government. Even in those cases where foreign assets are involved, except land, then those assets would be subject to the jurisdiction of Philippine laws.

Senator Angara. Yes, but does the Gentleman not agree that allowing that amendment would place Philippine domestically-incorporated corporations at a disadvantage, vis-a-vis corporations incorporated in other places like Delaware, for example, or any other tax-haven places, because of the rules that are quite liberal in this jurisdiction?

For instance, a Philippine corporation must have at least five incorporators but in some of these jurisdictions we need only two incorporators and the financial reporting requirements are rather liberal as compared to the requirements of the Philippine laws.

So, in a sense, it will place the Philippine corporation at a

disadvantage vis-a-vis this foreign-incorporated company.

Senator Enrile. We are talking here, Madam President, of nationality of corporations and the power and right to engage in business. I have my doubts whether we can limit a citizen of the country in engaging in business to compel him to organize a corporation under the laws of the Philippines rather than under a law outside of the country for as long as, let us say, it is 100 percent owned by him.

Senator Angara. Yes, Madam President, but the requirement of domestication is a legitimate exercise of the regulatory power of the State and to do business in the country is a privilege; therefore, the country can impose a reasonable regulation on doing business. I think the requirement of domestication is reasonable and, in fact, a good precaution in order to protect Philippine incorporated companies.

Senator Enrile. Madam President, if a foreign corporation is organized under the laws of Delaware wholly owned by a foreigner and it applies under our laws to engage in business in the country and we allow it in an area where it is allowed to be dealt with by an alien, we allow it under our law, why should we not allow the same privilege to a Filipino who organizes his own corporation outside of the country and engages in business in the Philippines?

Senator Angara. In addition to what I said, Madam President, it will also give undue advantage to Filipinos who have the money to register abroad.

For instance, a Delaware corporation can be so structured that one share can control the whole corporation, the so-called "golden share." But that is not allowed under Philippine laws. So, as far as Philippine corporation is concerned, it will be disadvantaged by a Delaware-organized corporation.

The President Pro Tempore. The Chair would like to recognize the Majority Leader.

SUSPENSION OF THE SESSION

Senator Romulo. I move for the suspension of the session, Madam President.

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

It was 5:33 p.m.

RESUMPTION OF THE SESSION

At 5:39 p.m., the session was resumed.

The President Pro Tempore. The session is resumed. Senators Magsaysay and Enrile are recognized.

Senator Enrile. Madam President, in line 27, page 1 of the proposed act, after the semicolon...

Senator Magsaysay. Excuse me, Madam President. The copy of the Gentleman from Cagayan must be different from mine.

Senator Enrile. Is that so?

Senator Magsaysay. If the Gentleman does not mind, I will give him the amended copy as of March 6, 1996.

Senator Enrile. Madam President, in line 8, after the word "Philippines", is this a comma or a semicolon?

Senator Magsaysay. It is a comma, Madam President.

Senator Enrile. This comma ought to be changed into a semicolon (;) and after the semicolon before the word "or", insert the following proposed amendment: A CORPORATION NOT ORGANIZED UNDER THE LAWS OF THE PHILIPPINES OF WHICH ONE HUNDRED PERCENT (100%) OF THE CAPITAL STOCK OUTSTANDING AND ENTITLED TO VOTE IS OWNED AND HELD BY CITIZEN OR CITIZENS OF THE PHILIPPINES; et cetera.

Senator Magsaysay. Madam President, is it owned or wholly owned?

Senator Enrile. Wholly owned.

Senator Magsaysay. Subject to style, it is accepted, Madam President.

Senator Enrile. Thank you, Madam President.

Senator Roco. Mr. President.

The President Pro Tempore. Senator Roco is recognized.

ENRILE-ROCO AMENDMENT

Senator Roco. Madam President, may I just suggest a modification, if the two Gentlemen will accept: A CORPORATION WHOLLY OWNED BY FILIPINOS ORGANIZED ABROAD PROVIDED THEY REGISTER AS DOING BUSINESS IN THE PHILIPPINES UNDER THE CORPORATION LAW.

Senator Enrile. It is accepted, Madam President, subject to style.

Senator Magsaysay. The same is accepted, subject to style, Madam President.

The President Pro Tempore. Is there any objection to the amendment which has been accepted by the Sponsor? [*Silence*] There being none, the amendment is approved.

Senator Enrile. Madam President, may I continue?

The President Pro Tempore. Senator Enrile is recognized.

Senator Enrile. The second clause, Madam President, "or a trustee of funds for pension or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty percent (60%) of the fund will accrue to the benefit of Philippine nationals."

When we talk of Philippine nationals, after the proposed amendments, these would include non-Filipino citizens, Madam President.

Senator Magsaysay. That is true, Madam President.

Senator Enrile. The 60 percent could include natural-born Filipinos who have lost their citizenship but in a way are made Philippine nationals by virtue of the proposed amendment.

Senator Magsaysay. That is true, Mr. President.

Senator Enrile. So if he is a natural-born Filipino although at the present time a citizen of the United States, if he is the trustee of a pension fund, to provide pensions to some people, 60 percent of the beneficiaries being also like him, natural-born Filipinos but already a naturalized American, I think the word "trustee" is misplaced there; it should be "trust", "trust funds" for pension. This trustee or trust fund would then be considered as a Philippine national?

Senator Magsaysay. That is true, Madam President. However, with the latest accepted compromise provision, we are not defining Philippine national. We have put it in a separate section.

Senator Enrile. What section, Madam President?

Senator Magsaysay. This is the section that was proposed by the Gentleman from Camarines Sur that, subject to style, might be placed before or after the provision on land ownership, which is Section 10. Nevertheless, once this measure is passed, Philippine nationals would include noncitizens of the country provided they were natural-born citizens, although no longer citizens of the country.

Senator Magsaysay. The Gentleman from Camarines Sur will help out, Madam President.

Senator Roco. Madam President.

The President Pro Tempore. Senator Roco is recognized.

Senator Roco. By way of information, should amendments as accepted by the Sponsor eventually got approved, the effect is, by isolating lines 1 to 11 on page 2 into Section 10 or a new Section 10-B, which speaks of other rights of natural-born citizens, we therefore have another category for former citizens. So that they will no longer modify the definition of Philippine national.

Senator Enrile. They will no longer be treated as Philippine national.

Senator Roco. That is correct, Madam President. That is why, by just removing it and putting it in another section, we hope that the legislative intent of not treating them as Philippine nationals will then be clarified.

Senator Enrile. So the beneficiaries of a trustee of funds for pension must be understood to mean Filipino citizens although they are categorized as Filipino nationals; therefore, 60 percent of the benefits must go to them to consider the trustee of pension funds as a Philippine national.

Senator Roco. If that is the intention of the Sponsor. But it must be to the benefit of Filipino citizens.

Senator Enrile. That is right, Madam President.

Senator Roco. And it will no longer include former Filipino citizens if the proposed amendment, in fact, is later on adopted.

Senator Enrile. Thank you very much.

Senator Roco. Thank you, Madam President.

Senator Webb. Madam President.

The President Pro Tempore. Senator Webb is recognized.

Senator Webb. Madam President, I remember that during the period of amendments last week, I proposed an amendment. May I reiterate the said proposed amendment which was questioned by Senator Mercado—the inclusion of the words "Filipino First Policy" in one of the definitions.

May I first read my proposed amendment, Madam Presi-

dent. On page 4, line 14, insert between the clause "amendments to List B may be made" and the phrase "upon the recommendation of" the following phrase: ON THE BASIS OF THE FILIPINO FIRST POLICY AND. So that it would read: "Amendments to List B may be made ON THE BASIS OF THE FILIPINO FIRST POLICY AND upon recommendation of the Secretary of National Defense," et cetera.

Now, I looked up the definition of the "Filipino First Policy" from the *Philippine Legal Encyclopedia*, Madam President—this was defined by Atty. Jose Agaton Arcival—and it talks of the "Filipino First Policy" as applied to trade and commerce. It states:

It is a policy to make economic independence a reality by reserving the Filipinos certain fields of economic endeavor to the exclusion of aliens or by giving the Filipino traders preferential rights in order to give them advantages in competing with aliens.

I particularly injected this into the bill as a reminder that, indeed, even if we give certain rights to foreign Filipino nationals, we should never lose sight that the advantage should always be given to the Filipino.

SUSPENSION OF THE SESSION

Senator Magsaysay. May I ask for a suspension of the session, Madam President.

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

It was 5:51 p.m.

RESUMPTION OF THE SESSION

At 5:54 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Webb. Madam President.

The President Pro Tempore. Senator Webb is recognized.

Senator Webb. Madam President, after conferring with the Sponsor, we have realized that it was injected into the same page but this time in lines 3 and 4. I therefore withdraw my amendment now that the said amendment was put in the bill.

Thank you very much, Madam President.

The President Pro Tempore. Are there any more amendments?

Senator Macapagal. Madam President.

The President Pro Tempore. Senator Macapagal is recognized.

Senator Macapagal. Madam President, on page 4, lines 14 to 18, delete the entire sentence.

We are therefore affirming by this that List B on defense contracts, as well as on activities like gambling, will, without exceptions, be limited to Filipino nationals.

SUSPENSION OF THE SESSION

Senator Magsaysay. Madam President, may I ask for a one-minute suspension of the session.

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

It was 5:56 p.m.

RESUMPTION OF THE SESSION

At 6:00 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Macapagal. Madam President, because the amendment that I was proposing will absolutely Filipinize defense manufacture and defense contracts, I would like to find out from our Chairman of the Committee on National Defense and Security whether he agrees with this policy recommendation or not.

Senator Mercado. Madam President.

The President Pro Tempore. Senator Mercado is recognized.

Senator Mercado. I believe, Madam President, that the amendment may have an unintentional effect of straitjacketing, in a way, our defense efforts towards modernization.

There are nations, for example, like Indonesia, that have gone into a cooperative agreement with Spain for the production of air force assets and they are now busy exporting airplanes.

We cannot foresee, Madam President, what the regional scenario would be. There may come a time, for example, where

the Asian nations will move beyond the discussion of economic activities, go into security, and decide to have a complementation program in the manufacture of certain war material.

I believe, Madam President, the flexibility granted to the President and the Secretary of National Defense is necessary. While we do appreciate the thinking that defense production should be in the hands of Filipinos alone, in the defense industry there is a need for exchanges, complementation and cooperation sometimes with other nations.

I believe, Madam President, it would be in the interest of our security to allow the existing flexibility provided in the provisions of law.

Senator Macapagal. Madam President, may I call the attention of the distinguished Chairman of the Defense Committee to page 3, from lines 12 to 16, and ask him whether he does not think that this phrase already covers such exceptional cases.

Senator Mercado. Madam President, the provision cited is paragraph 1, from lines 4 to 16: "defense-related activities requiring prior clearance and authorization from Department of National Defense (DND) to engage in such activity, such as the manufacture, repair, storage and/or distribution of firearms, ammunition, lethal weapons, military ordnance, explosives, pyrotechnics and similar materials; unless such manufacturing or repair activity is specifically authorized with a substantial export component, to a non-Philippine national by the Secretary of National Defense."

The Lady Senator, Madam President, is correct. There is flexibility allowed with the authorization given by the Secretary of National Defense.

Senator Macapagal. In that case, can we, therefore, proceed with the deletion of lines 14 to 18 on page 4?

Senator Mercado. Madam President, I think with this provision cited, we are not totally removing the flexibility on the part of the Executive branch to make such decisions relative to the national security.

MACAPAGAL AMENDMENT

Senator Macapagal. Madam President, given this clarification that lines 12 to 16 on page 3 still provide for that occasion when, administratively, a foreigner may be allowed to engage in the manufacture of defense materials, may I reiterate my recommendation that we delete lines 14 to 18 on page 4?

Senator Magsaysay. Madam President, is the Chairman of

the Committee on National Defense and Security in favor of the deletion of this?

The President Pro Tempore. May Senator Mercado reply to the query of the Sponsor.

Senator Mercado. We interpose no objection, Madam President.

Senator Macapagal. Madam President, on page 4, lines 19.

Senator Magsaysay. Excuse me, Madam President. I have not answered the Senator from Pampanga. The Lady Senator was asking for the deletion on page 4 of lines 14 to 18. Since the Chairman of the Committee on National Defense and Security has no objection, I accept the amendment.

The President Pro Tempore. The amendment is accepted. Is there any objection to the deletion of the amendment in question? [*Silence*] There being none, the deletion of the amendment in question is approved.

Senator Macapagal. Madam President, on page 4, lines 19 to 31, the word "subsequent" in line 31, the last time that this Representation stood up in the period of individual amendments, I proposed that this portion be restored. At that time, the distinguished Chairman agreed, although quite reluctantly.

Because he agreed quite reluctantly, I took this opportunity to consult with the Philippine business sector, both large and small-scale enterprises. I repeated to them the explanation that the Chairman gave before this Floor in defense of deleting these lines and they were enlightened that, indeed, it does not remove List C altogether even if we remove the transitory provision.

Although this version of the bill inadvertently still deletes it, contrary to my proposal that it be retained, I would like to say that, perhaps, it is a serendipity and I now agree to the deletion of these lines.

Senator Magsaysay. So, Madam President, will the Senator from Pampanga agree that the transitory provision remain deleted?

Senator Macapagal. Yes, Madam President.

Senator Magsaysay. That is fine, Madam President.

Senator Macapagal. Thank you, Madam President. That is all.

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a short suspension of the

session, Madam President.

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

It was 6:07 p.m.

RESUMPTION OF THE SESSION

At 6:20 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Romulo. Madam President, may I ask that Senator Herrera be recognized for his amendment.

The President Pro Tempore. Senator Herrera is recognized.

HERRERA AMENDMENTS

Senator Herrera. Thank you, Madam President.

On page 5, line 5(k), my amendment is: delete the words "one thousand", and make it FIVE THOUSAND square meters in the case of urban land. And then in line 5(l), instead of "one hectare", make it THREE HECTARES in the case of rural land.

Senator Magsaysay. We accept the amendment of the Gentleman from Cebu and Bohol, Madam President.

The President Pro Tempore. Is there any objection to this amendment? [*Silence*] There being none, the amendment, as accepted by the Sponsor, is hereby approved.

Senator Herrera. In line 5(m), "to be used by him as his residence OR FOR BUSINESS PURPOSES."

Senator Magsaysay. The Committee accepts the amendment, Madam President.

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

Senator Herrera. Then, Madam President, the succeeding lines will also be amended in order to conform with the amendment in lines 5(k), 5(l) and 5(m).

Senator Magsaysay. We accept the amendment, Madam President.

The President Pro Tempore. The subsequent amend-

ments have been accepted by the Sponsor to conform with the previous amendments.

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

Senator Herrera. Thank you, Madam President.

Senator Magsaysay. Madam President, the clean copy of the Roco amendment is already in the plenary Hall. We are just waiting for the Senator from Catanduanes, Senator Tatad, to get his copy because it was he who asked for a clean copy.

The President Pro Tempore. The Chair does not have a copy of the said amendment.

Senator Romulo. Madam President, before that amendment, may I ask that Senator Drilon be recognized.

The President Pro Tempore. Senator Drilon is recognized.

DRILON AMENDMENT

Senator Drilon. Thank you, Madam President.

In consonance with the Herrera amendment approved by the Committee and approved by this Body, may I propose that on page 5, lines 5(e) to 5(f) the following phrase be deleted: "SECTIONS 2 AND 3 OF BATAS PAMBANSA BLG. 185, AND". I would repeat, Madam President.

In lines 5 (e) and 5 (f), delete the following phrase: "SECTIONS 2 AND 3 OF BATAS PAMBANSA BLG. 185 AND". The reason for the deletion is obvious.

So the provision will now read: "PURSUANT TO THE PROVISIONS OF ARTICLE XII, SECTION 8 OF THE CONSTITUTION." That is the proposed amendment, Madam President.

The President Pro Tempore. May we know the pleasure of the Sponsor?

Senator Magsaysay. It is accepted, Madam President.

The President Pro Tempore. The amendment has been accepted by the Sponsor. Is there any objection? [*Silence*] There being none, the amendment is approved.

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a short suspension of the

session, Madam President.

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

It was was 6:26 p.m.

RESUMPTION OF THE SESSION

At 6:36 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Romulo. I ask that Senator Roco be recognized for his amendment.

The President Pro Tempore. Senator Roco is recognized for his amendment.

ROCO AMENDMENT

Senator Roco. This is really the amendment already, Madam President, that includes the Chairman, the Majority Leader, Senator Drilon, Senator Herrera, Senator Webb and Senator Revilla.

May we read the proposed new section that may probably become Section 11. We leave to the Chairman the sectioning.

FOR PURPOSES OF THIS ACT, FORMER NATURAL-BORN CITIZENS OF THE PHILIPPINES SHALL HAVE THE SAME INVESTMENT RIGHTS AS A PHILIPPINE CITIZEN IN COOPERATIVES UNDER R.A. 6938; RURAL BANKS UNDER R.A. 7353; THRIFT BANKS AND PRIVATE DEVELOPMENT BANKS UNDER R.A. 7906; AND FINANCING COMPANIES UNDER R.A. 5980. THESE RIGHTS SHALL NOT EXTEND TO ACTIVITIES RESERVED BY THE CONSTITUTION INCLUDING (1) THE EXERCISE OF PROFESSION; (2) DEFENSE-RELATED ACTIVITIES UNDER SECTION 8(B) HEREOF UNLESS SPECIFICALLY AUTHORIZED BY THE SECRETARY OF NATIONAL DEFENSE; AND (3) ACTIVITIES COVERED BY R.A. 1180 (RETAIL TRADE ACT), R.A. 5487 (SECURITY AGENCY ACT), R.A. 7076 (SMALL-SCALE MINING ACT), R.A. 3016, AS AMENDED (RICE AND CORN INDUSTRY ACT), AND P.D. 449 (COCKPIT OPERATION AND MANAGEMENT DECREE).

Senator Magsaysay. It is accepted, Madam President.

The President Pro Tempore. Is there any objection to this amendment which has been accepted by the Sponsor? [*Silence*]

There being none, the amendment is approved.

Senator Romulo. There are no more individual amendments, Madam President.

I move to close the period of individual amendments.

The President Pro Tempore. Is there any objection to close the period of individual amendments?

Senator Macapagal. Madam President.

The President Pro Tempore. Senator Macapagal is recognized.

MANIFESTATION OF SENATOR MACAPAGAL (Inclusion of Senators Fernan, Herrera, Ople and Tatad as Coauthors)

Senator Macapagal. I have no objection, but I would like to take this opportunity, before we suspend deliberations on this measure, to manifest that Senators Herrera, Fernan, Ople and Tatad are also coauthors.

The President Pro Tempore. Let that be noted by the Secretariat.

Senator Romulo. Madam President, I move that we vote and approve on Second Reading...

Senator Magsaysay. Madam President.

The President Pro Tempore. Senator Magsaysay is recognized.

Senator Magsaysay. Inasmuch as the main Author, the Senator from Pampanga and Pangasinan, has manifested to include some Senators to be coauthors of this bill, we also would like to include here Senators Webb, Roco and Osmeña who are already included as coauthors in the substitute Senate Bill No. 1399.

Senator Macapagal. Madam President, I would like to point out that it is the author who accepts coauthors. And in lieu of the recommendation of the Sponsor, I accept the three names as coauthors.

Senator Magsaysay. Madam President, since Senator Roco furthermore included in his new amendment, which I accepted, the input of Sen. Ramon Revilla, I would also like to include Sen. Ramon Revilla and for that matter, the Senate President Pro Tempore, Leticia Shahani as one of the coauthors.

The President Pro Tempore. May we know the pleasure of the Author of this bill?

Senator Macapagal. Again, Madam President, as principal Author, it is my honor to accept them as coauthors.

The President Pro Tempore. So, all of the names mentioned on the Floor have been accepted as authors of the bill.

Senator Magsaysay. Thank you very much, Madam President.

I also wish to thank the main Author, Sen. Gloria Macapagal, for her generosity in embracing those who have made this landmark bill a very, very liberal bill indeed to allow more foreign investments and capital to come into our country, Madam President.

Senator Romulo. Madam President.

The President Pro Tempore. The Majority Leader is recognized.

Senator Romulo. May I now reiterate my motion to approve on Second Reading Senate Bill No. 1399, as amended.

The President Pro Tempore. Is there any objection to the proposal of the Majority Leader for us to vote on Second Reading Senate Bill No. 1399, as amended? [*Silence*] There being none, we shall now proceed to the voting.

APPROVAL OF S. NO. 1399 ON SECOND READING,
AS AMENDED

Senator Romulo. Mr. President, I move that we vote on Senate Bill No. 1399, as amended, on Second Reading.

The President Pro Tempore. We shall now vote on the bill, as amended, on Second Reading.

As many as are in favor of the bill, please say *Aye*. [*Several Senators: Aye*] As many as are against, please say *Nay*. [*Silence*]

Senate Bill No. 1399, as amended, is approved on Second Reading.

Senator Romulo. Since we have approved the bill on Second Reading, I move that we suspend consideration of Senate Bill No. 1399, as amended.

The President Pro Tempore. Since we have voted on

Senate Bill No. 1399, as amended...

Senator Sotto. Madam President.

The President Pro Tempore. Senator Sotto is recognized.

Senator Sotto. Madam President, I would just like to register my abstention.

The President Pro Tempore. Let that be noted.

Senator Coseteng. Madam President.

The President Pro Tempore. Senator Coseteng is recognized.

Senator Coseteng. Madam President, I would like to register a negative vote.

The President Pro Tempore. Let that also be noted.

Senator Macapagal. Madam President.

The President Pro Tempore. Senator Macapagal is recognized.

Senator Macapagal. May I just point out that Senator Sotto is a coauthor so he might want to withdraw his coauthorship if he is abstaining.

The President Pro Tempore. May we know the pleasure of Senator Sotto?

Senator Sotto. It is only now that I was informed that I was a coauthor, Madam President. So, may I withdraw my coauthorship of the bill and abstain from voting on the bill.

The President Pro Tempore. Let the statement of Senator Sotto be placed on record.

Senator Macapagal. Madam President, since we have just reestablished earlier that it is the author who accepts coauthors, let me just state that now that Senator Sotto said that he did know he was a coauthor, I would also like to say that I did not know how he became a coauthor.

Senator Magsaysay. Madam President, the explanation here is, at the earlier part of the period of interpellations, Senator Sotto interpellated and made some inputs. So the staff of the Committee thought and felt that since he put in his two cents worth or two dollars worth of input to this bill, inadvertently, he was included as one of the coauthors.

Senator Sotto. Thank you very much for that explanation, Madam President. Then, I am sure the main author of the bill now will understand that I do not know why I was made a coauthor and how I was made a coauthor.

Senator Romulo. Madam President, everything is now clarified.

SUSPENSION OF CONSIDERATION
OF S. NO. 1399

In the meantime, I move that we suspend consideration of Senate Bill No. 1399, as amended.

The President Pro Tempore. Is there any objection to the suspension of the further consideration of Senate Bill No. 1399, as approved on Second Reading and as amended? [*Silence*] There being none, the motion is approved.

Senator Romulo. Madam President, for the Privilege Hour, may I ask that the distinguished Gentleman from Baguio City and the Cordilleras, Sen. Juan Flavio, be recognized.

The President Pro Tempore. Senator Flavio is recognized.

PRIVILEGE SPEECH OF SENATOR FLAVIO
(The Anatomy of Graft and Corruption in the DOH:
The Case of the Medical Kits)

Senator Flavio. The title of my privilege speech is: "The Anatomy of Graft and Corruption in the DOH: The Case of the Medical Kits."

Madam President, Colleagues in this Chamber, ladies and gentlemen:

I rise on a matter of collective privilege affecting the health of Filipinos.

Last week, I received by fax a white paper on alleged graft and corruption in the Department of Health. Eight cases were specifically listed.

Therefore, I respectfully request that the white paper be made an integral part of my speech for the record and that it be included in the referral to the appropriate Committee.

While the document is unsigned, I gave it attention because of the serious allegations and the huge amount of money involved. In an attempt at transparency, I sent a copy to the DOH in the expectation of a clarification.

If media report is accurate, the DOH refused to react on the allegations because of the anonymity of the white paper. In an open letter to the editor of the *Manila Times* published on March 8, the top leaders of DOH challenged the whistle blower to come out in the open.

I am afraid DOH misses the point. The issue here is not the identity of the writer of the white paper; the issue is the commission or noncommission of graft and corruption in the DOH.

In the absence of a reaction, I decided to make my own cursory investigation. Some of my findings are alarming and saddening.

It is in this spirit that I rise to deliver this privilege speech—to raise questions because the Filipino people deserve some answers.

For this purpose, I limited myself to the consummated purchase by DOH of 20,000 medical kits in the amount of P9.999 million.

Question No. 1: What is the justification for a negotiated purchase; in other words, no bidding?

DOH Purchase Order (P.O) No. 3193 dated December 28, 1995 contains the official justification, the copy of which I am holding, and I quote:

This is to certify that the items mentioned herein are necessary and that the need for the same are exceptionally urgent and indispensable to avoid detriment to public service.

It invokes Section 1 of Executive Order No. 301, Series 1987. The operative phrases are "exceptionally urgent and indispensable to avoid detriment to public service."

Madam President, let the people be the judge. In this medical kit, as specifically listed in the Purchase Order No. 3193, are contained the alleged "urgent" medical supplies.

At this juncture, Senator Flavio showed a colored green and yellow combination bag.

Here is the medical kit, and it contains the following:

- 2 rolls of unsterile cotton
- 1 small bottle of alcohol
- 1 piece of oral thermometer
- 1 bottle of *Lagundi* herbal tablets
- 2 pieces of elastic bandage

RECORD OF THE SENATE

MONDAY, MARCH 18, 1996

OPENING OF THE SESSION

At 4:13 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 69th session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Anna Dominique M. L. Coseteng. After which, we shall be led in the singing of the Philippine National Anthem and another song entitled *Calesa* by the Senate Choir.

Everybody rose for the opening prayer.

PRAYER

Senator Coseteng.

Maawaing Ama, patawarin po Ninyo kami sa aming mga sala at tulungan Ninyo kaming maging malinis sa aming mga kaisipan at gawain upang tunay na makapaglingkod sa aming mga kababayan. Nawa ay tulungan po Ninyo kami sa gitna ng iba't ibang uri ng kontrobersiyang nagaganap sa aming lipunan at pamahalaan.

Kayo po ang inaasahan naming gagabay sa amin upang maging maliwanag ang aming mga pag-iisip. Ang lahat po ng kapasiyahan ay aming inihahain sa Inyo upang kami ay maging matagumpay at lubusang makapaglingkod sa Inyo at sa aming mga kababayan.

Siya nawa.

NATIONAL ANTHEM

Everybody remained standing for the singing of the National Anthem.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a one-minute suspension of the session.

The President. The session is suspended, if there is no

objection. [There was none.]

It was 4:18 p.m.

RESUMPTION OF THE SESSION

At 4:19 p.m., the session was resumed.

The President. The session is resumed.

ROLL CALL

The Secretary will please call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Anna Dominique M. L. Coseteng	Present
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Marcelo B. Fernan	Present
Senator Juan M. Flavier	Present
Senator Ernesto F. Herrera	Present*
Senator Gregorio B. Honasan	Present
Senator Gloria M. Macapagal	Present*
Senator Ernesto M. Maceda	Absent**
Senator Ramon B. Magsaysay Jr.	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator Sergio R. Osmeña III	Present
Senator Ramon B. Revilla	Present*
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Miriam D. Santiago	Present
Senator Leticia R. Shahani	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
Senator Freddie N. Webb	Present
The President	Present

The President. With 19 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

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

*Arrived after the roll call

**On account of illness

being none, consideration of Senate Bill No. 1450 is suspended until tomorrow.

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

ADDITIONAL REFERENCE OF BUSINESS

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

The Secretary.

March 14, 1996

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

Dear Senate President Gonzales,

Pursuant to the provisions of Section 26(2), Article VII of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1399, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES,

to meet the urgent need to put in place the complementary structures and conditions to make the country a viable alternative to Hong Kong as a financial and investment center in the region.

Best regards.

(Sgd.) FIDEL V. RAMOS
President

cc: Hon. Jose de Venecia Jr.
Speaker
House of Representatives
Batasang Pambansa Complex
Quezon City

The President. Referred to the Committee on Rules.

MANIFESTATION OF SENATOR ROMULO
(Senator Revilla as Coauthor of S. No. 1431)

Senator Romulo. Mr. President, at the request of the

distinguished Gentleman from Sorsogon, Senator Honasan, may I manifest that for Senate Bill No. 1431, Sen. Ramon Revilla is a coauthor thereof.

The President. Let that manifestation be recorded in our *Journal*.

MANIFESTATION OF SENATOR ROMULO
(Senators Flavier and Revilla as Coauthors
of S. Nos. 1432 and 1433)

Senator Romulo. For Senate Bill Nos. 1432 and 1433, both Senators Flavier and Revilla be also made as coauthors thereof.

The President. Let that be noted.

Senator Romulo. Mr. President, may I also inform the Chamber that the printed copies of Senate Bill No. 1399, "An Act to Further Liberalize Foreign Investments, Amending for the Purpose Republic Act No. 7042, and for Other Purposes," were distributed to the Senators since Thursday for purposes of the rule on three-day printed copies.

Mr. President, may I ask permission to avail myself of the Privilege Hour.

The President. The distinguished Majority Leader, Senator Romulo, Chairman of the Committee on Rules, is hereby recognized for the Privilege Hour.

PRIVILEGE SPEECH OF SENATOR ROMULO
(Whence Comes Such Another?)

The following is the full text of the privilege speech of Senator Romulo:

Thirty-nine (39) years ago, President Ramon Magsaysay died in a plane crash:

In shock and with black arm bands, the Filipino nation then stood still and wept. For most of our countrymen it seemed like the end of the world. For the Filipino people had lost a father, a brother, a friend and a champion.

We asked then: "Whence comes such another?"

Today, as we remember and honor this beloved President, we ask: Have we lived up to his dreams and aspirations? Have we measured up to his standards and values? Have we kept faith with him?

We remember Ramon Magsaysay, the guy with a big heart for the little people; the compassionate man who felt most at ease with the unshod and the unlettered; the friend who always kept his door and his heart open to all.

Ramon Magsaysay's accessibility and approachability to the ordinary people and the rural folks endeared him to his countrymen.

Always approachable, he would jump over ditches and wave into crowds to dialogue with the people despite reports of threat to his life. In one instance, the very triggerman assigned to kill him went to Malacañang and surrendered to the President himself.

President Magsaysay used to say that the rich can take care of themselves for they have their lawyers, accountants, managers, but when a poor farmer or a barrio captain visits Malacañang, "I," said the President, "take care of him first because this farmer comes from a distant place; spends his little money to come to see me; he must be taken care of first."

In the Malacañang open-house, while senators, congressmen, governors, businessmen, barrio officials and farmers await the presidential nod, President Magsaysay would invariably call the plainest dressed visitor farthest from him, patiently listen to him before assigning an aide to help and solve the man's problem. The politicians thought it a good show but Ramon Magsaysay singled out the common man as he felt nobody else would spend time with them. In turn the *provincianos* felt at ease with their beloved President and did not hesitate to unburden themselves to him.

There were times, however, when the President's accessibility was carried to extremes. Not only were the gates of Malacañang thrown open to the public, even his bedroom was not spared. Mrs. Magsaysay could not forget the shock of her first morning in Malacañang when she woke up to see a group of people in her bedroom waiting to talk to the President. She had to grab a robe and flee to another room.

Should we not as public servants remind ourselves of these traits of Ramon Magsaysay? Yet, there are many government officials whose doors remain close to the people, who cannot be disturbed in their air-conditioned, soft-cushioned rooms, who do not even answer phone calls because they are too busy.

We remember Ramon Magsaysay, the public

official whose honesty, integrity and sincerity remain the epitome and yardstick of public service, who restored the people's faith and trust in their government not by empty words but by acts and deeds to make government truly responsive to the people's needs.

In personal integrity Ramon Magsaysay led by example.

Scrupulously honest, President Magsaysay was particularly strict with his family. When President Magsaysay died and his family had to move from Malacañang, they had nowhere to go. Close friends of the departed President had to pool their individual contributions to build a house for Mrs. Magsaysay and his children where up to this day Mrs. Luz Magsaysay lives.

During his lifetime, President Magsaysay applied to the hilt the test of "Ceasar's Wife."

When Mrs. Magsaysay travelled to the United States for her sinus operation at John Hopkins, she took an ordinary room at New York's Waldorf Astoria, not the suite offered to her as a President's wife.

When his son or daughters brought their classmates to Malacañang for meals, the President instructed the kitchen staff to deduct from his salary the food they consumed.

When he gave his son a Ford Sedan as a graduation gift, the Malacañang finance officer informed the President he could save duties and taxes by declaring the car government importation. The President promptly gave the officer a piece of his mind and sternly rebuked him. "We cannot have two sets of laws, one for the powerful and one for ordinary people," he said. The President paid in full the duties and taxes on the car.

To show he did not favor his relatives, the President ordered the cancellation of his uncle's contract to transport coal for the government's cement corporation. But his uncle, Don Ambrosio, had a valid contract even before the President was elected to office. It took a Supreme Court decision awarding damages to the elder Magsaysay to settle the dispute.

The President personally told his brothers and sisters to lay off government agencies and public contracts. Not content with this, he asked officials to report to him any transgression by his relatives.

Sen. Manuel Manahan, who had served the President as customs commissioner, related an incident: when he had reported to the President a kin's request to allow a certain import shipment, he was ordered to charge the relative in court.

Because of President Magsaysay's strict norm of personal integrity and sensitivity to perceptions of corrupt practices, one high government official almost lost his job.

In the second year of the Magsaysay administration, as was the practice, Mr. Gregorio Licaros, head of the Central Bank's Import Department, was chosen to raise funds for gifts to indigent children during the traditional Malacañang Christmas Festival. Mr. Licaros assigned specific quotas to importer-clients of his office as their contribution to the festival. When the President was informed of this scheme, he was enraged and Licaros was almost fired.

Fred Ruiz Castro, the Executive Secretary, was not as lucky. When the President read in the newspapers that Mrs. Magsaysay's nephew was assigned by Mr. Castro to the Military Attaché's Office in Washington, the President ordered the discharge of his nephew and offered to reimburse the transportation expenses of the boy. He then accepted the resignation of his Executive Secretary.

In matters of good government, President Magsaysay was uncompromising and firm. As noted by a respected columnist, the President was never ambiguous. He made a stand and stood by his position through his acts. He fought corruption at every turn.

For every government act and contract, the President asked his officials to use a simple yardstick: Is this good for the people? Can you defend them in Plaza Miranda?

With his sensitivity to perceived corrupt practices in government, President Magsaysay personally ordered the investigation and prosecution of corruption in government offices. Hardly a week passed without some anomaly being unearthed and investigated. During his first six months in Malacañang, the President reported to the nation that 388 public officials had been reprimanded, suspended or dismissed for various forms of official misconduct.

We remember Ramon Magsaysay, the President of

the people for his deep concern and abiding commitment that those who have less in life should have more in law.

President Magsaysay was a man in a hurry to help his people. To him, the common people and their needs was a number one priority and always had first claim. He gave priority to programs that would benefit and improve the life and lot of the common man—artesian well program to give fresh and clean water to the rural population; the irrigation program for the farmers; army-type schoolhouses; animal dispersal program to the rural areas; land for the landless. Indeed, his concern every hour of his waking day was the lot of the common people, the little people, the barrio people, those whom Lincoln called "the people God loves most."

Today, as we remember Ramon Magsaysay in a more real sense, we can honor him only by what we do. We honor him only when we have given life and substance to his values and ideals, to his dreams and aspirations. First, by maintaining at all times the full confidence of the people in our governance through leadership by example. Second, by the quality of the public service we render and our strict adherence to the Magsaysay credo of honesty, integrity, and sincerity. And third, by the degree and extent of our care and commitment to the common *tao*.

In particular, here in Congress, here in the Senate, we can remember and honor Magsaysay by continuing to enact legislation to give life and substance to the social justice provision of the Constitution; to promote social justice in all phases of national development; to build a just and humane society; to promote the common good; to promote a just and dynamic social order; to free the people from poverty; to provide adequate social services; promote full employment, a rising standard of living, and an improved quality of life; to provide more equitable distribution of opportunities, income and wealth; to give highest priority to the enactment of measures that protect and enhance the right of the people to human dignity, reduce social, economic, and political inequalities; and to assign the highest budgetary priority to education.

Specifically by implementing in full the agrarian reform program, by accelerating the distribution to the farmers and tillers of farms and lands to till with all-out budgetary and technical support to make the farms productive and prosperous; by providing the rebel returnees who seek new lives the economic and social

opportunities to better their lives and those of their children, by implementing a real pro-people national reconciliation and development program; by providing all our people three square meals a day, clean and potable water in every Filipino home, access to doctors and medication even in remote areas, full educational opportunities to all; social housing to the homeless and the unsheltered; by providing jobs, livelihood and credit opportunities to every citizen with full opportunity to earn just and decent incomes and wages; by approving real pro-people, and pro-poor legislation on economic development.

In sum, as President Magsaysay continued to exhort his countrymen during his lifetime—those who have less in life should have more in law.

Mr. President, these goals and objectives represent the essence of Ramon Magsaysay's dreams and aspirations for our people. The day these dreams and aspirations come true to the least of our brethren, we have truly remembered and honored Ramon Magsaysay. Then, we can say to him:

Mr. President, we picked the baton from you.

We have continued what you began.

We have kept the faith.

Senator Webb. Mr. President.

The President. Senator Webb is recognized.

Senator Webb. Mr. President, will the Majority Leader yield for just one question? This is just out of curiosity.

Senator Romulo. Willingly, Mr. President, to our distinguished Colleague.

Senator Webb. I would like to congratulate our distinguished Colleague for his very well-researched speech primarily because I have learned a lot from his speech about the things the late President Magsaysay did for our country.

But I would like to ask the Gentleman: Sino po ba sa tingin ninyo ang maaaring masabi natin who can come close to the ideals, to the kind that President Magsaysay was? Sino sa mga sumunod na Pangulo natin ang sa tingin ninyo ay maaaring masabi nating may kahalintulad na prinsipyo, gawain, galing at bait ni Presidente Magsaysay?

Senator Romulo. Mr. President, the title of my speech speaks for itself. It asks, "Whence Comes Such Another?"

Of course, this is a Shakespearean line, Mr. President, so I do not claim any credit to this phrase.

But, President Magsaysay stands by himself. Because as pointed out by Mr. Doronila in his column today, one thing about President Magsaysay was that we knew exactly where he stood. He was unambiguous about where he stood, unlike others who were neither here nor there, right, left or center. He stood on the side of the small, the little people; he stood on the side of the good, upright, responsible, honest government. He was anti-communist; of course, this is one of his stances.

So we knew where he was coming and where he was going. That is why those who lived during that era—Senator Manahan was one of them—told me before he died, "You look at the members of the Cabinet of President Magsaysay; you look at his appointees; you look at the people who occupied high offices, they were all straight and behaved. But if they were not straight or there was a dispute as to the way they acted, then they were fired."

That almost happened to Governor Licaros who was then the head of the Import Department of the Central Bank of the Philippines. Because during Christmas time, it was the practice of the Governor of the Central Bank of the Philippines to assign people who were made to head the fund-raising campaign to give a quota to the import-clients of their office. So this has been done forever. When President Magsaysay heard about it, he was enraged and wanted to fire Governor Licaros. In fact, I understand he fired him but on second thought, he felt that this was a practice by which he could not have blamed Governor Licaros.

But in the case of Secretary Fred Ruiz Castro, his only fault at that time was that he had appointed, I think, Felicito de Gala, a nephew of Mrs. Magsaysay, to the military attaché's office in Washington. This also enraged the President because he was definitely unambiguous about it. He had a definite stand against nepotism in government offices. So he ordered the discharge of Felicito de Gala and offered to pay or reimburse his transportation expenses back to the Philippines. Then he accepted the forced resignation of Secretary Castro.

So this is the stuff of which we hope our future leaders, particularly future presidents of this country, would emulate. I think it is about time that we had another Magsaysay. Of course, we have one here with us. But it is about time that we had a leader who has solid backbone, uncompromising stance, straight conviction—a man like President Magsaysay.

Senator Webb. Ginoong Pangulo, iyong mga katangiang nabanggit ninyo, has this become an illusion? Para bang napakahirap sumunod sa yapak ni Presidente Magsaysay. At masasabi natin na halos lahat ng sumunod na Pangulo ay hindi nakasunod sa yapak ni Presidente Magsaysay.

Hindi kaya lahat ng pangyayaring binanggit ninyo ay nangyayari sa mga sumunod na Pangulo o hindi na maaaring mangyari pa? Sapagkat lahat ng tumatakpong Pangulo ay may mga taga-tangkilik na humihingi ng gantimpala o kapalit pagdating ng panahong sila ay mahalal. Iyan marahil ang nagiging pang-akit ng mga pulitiko. Hindi dapat mangyari na tumanaw tayo ng utang na loob o magbigay ng gantimpala doon sa mga taong tumulong sa atin.

Senator Romulo. Totoo po iyan. Dito sa aking talumpati para kay Presidente Magsaysay ay hindi ko naman sila ikinukumpara. I never compared him with other presidents in my speech. I think they can stand on their own except, perhaps, one.

Anyway, Mr. President, I think that when we choose the leaders of our country, we should model the example of President Magsaysay. We do not need a brilliant man or a bar topnotcher. What we need is one who has in his heart the good and welfare of the people; one who is uncompromising, unyielding, unambiguous. And I am hopeful that somewhere, such a man or a woman is out there; it is up to us to look for that man or woman.

Senator Webb. I join our Senate Majority Leader in wishing, hoping and searching for the leader who would be a Magsaysay-type of a president.

Thank you very much, Mr. President.

Senator Romulo. Thank you, Mr. President.

Mr. President, over the weekend, the Senate President had issued a memorandum to all the senators on the subject of morning and afternoon sessions, indicating therein the start of the morning sessions from Tuesday, Wednesday and Thursday at ten o'clock in the morning and the adjournment at four

o'clock. We will follow the same practice that we call the roll—Monday afternoon, Tuesday afternoon, and Wednesday afternoon. Thereafter, we suspend the session.

I have here the result of the reply to the Senate President's memorandum dated March 14. The overwhelming majority supports the call of the Senate President for the morning and afternoon sessions.

Tomorrow, we shall resume consideration of the bills that are in the Calendar for Special Orders. These are Senate Bill No. 1461, Home Consumption Value; Senate Bill No. 1415, Agricultural Tariffication; Senate Bill No. 1188, the Irrigation Crisis Act; and other bills in the Calendar for Special Orders.

Also, we shall have for Third Reading Senate Bill No. 1399, Liberalizing Foreign Investments Act.

**MOTION OF SENATOR ROMULO
(Reconsideration of the Approval of H. No. 2518)**

On House Bill No. 2518, the bill constituting the Second Engineering District in the Province of Camarines Sur into two separate and distinct engineering districts, after consultation with the Sponsor and Chairman of the Committee, I move to reconsider the approval on Second Reading of the said House bill.

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

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, as I have indicated earlier, I move that, in accordance with the response to the memorandum of the Senate President on the morning and afternoon sessions, we suspend this evening's session until ten o'clock tomorrow morning.

The President. The session is suspended until ten o'clock tomorrow morning, if there is no objection. [*There was none.*]

It was 7:24 p.m.

RECORD OF THE SENATE

TUESDAY, MARCH 19, 1996

OPENING OF THE SESSION

At 4:07 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 70th session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

Let us rise and be led in prayer by Sen. Franklin M. Drilon.

Everybody rose for the opening prayer.

PRAYER

Senator Drilon.

Almighty God, You have said that when two or more are gathered in Your name, You will be in their midst. So without doubt, we affirm Your presence now here with us.

Let us then feel His presence and worship our Lord. He alone deserves our praises. Let us open our hearts and welcome Him with contrition and love.

Please forgive us for the many times we forget to call on You and take for granted the blessings You have given us. Shine on us to enable us to discern and carry out without fear Your will in all our undertakings.

Again, Lord, we lift up to You our country for forgiveness and healing. All these we ask in the mighty name of Your son.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

- Senator Heherson T. Alvarez Present*
Senator Edgardo J. Angara Present*
Senator Anna Dominique M.L. Coseteng Present*
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present*

*Arrived after the roll call

- Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Absent**
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople Absent
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present*
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present*
Senator Freddie N. Webb Present***
The President Present

The President. With 14 Senators present, the Chair declares the presence of a quorum.

Senator Romulo. Mr. President, we have Senate Bill No. 1399 for Third Reading. Printed copies of the bill were distributed last March 14. Today, it meets the three-day printing rule. In addition to this, the President certified this bill for immediate passage.

May I ask the Secretary to read the certification of the President.

The Acting Secretary [Atty. Raval].

March 14, 1996

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

Dear Senate President Gonzales,

Pursuant to the provisions of Section 26(2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1399, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES,

**On account of illness

***On official mission but arrived after the roll call

to meet the urgent need to put in place the complementary structures and conditions to make the country a viable alternative to Hong Kong as a financial and investment center in the region.

Best regards.

(Sgd.) FIDEL V. RAMOS

cc: Hon. Jose de Venecia Jr.
Speaker House of Representatives
Batasang Pambansa Complex
Quezon City

BILL ON THIRD READING
S. No. 1399 - Liberalizing Foreign Investments
and Amending RA 7042

Senator Romulo. Mr. President, I move that we vote on Third Reading on Senate Bill No. 1399. Copies of the bill were distributed to all the Members of the Senate on March 14, 1996.

The President. Voting on Third Reading on Senate Bill No. 1399 is now in order.

The Secretary will please read only the title of the bill, if there is no objection. [*There was none.*]

The Acting Secretary [Atty Raval]. Senate Bill No. 1399, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 13

Senator Angara	Senator Mercado
Senator Drilon	Senator Osmeña
Senator Fernan	Senator Roco
Senator Flavier*	Senator Romulo
Senator Honasan	Senator Shahani
Senator Macapagal*	The President
Senator Magsaysay*	

*With explanation of vote

NO - 2

Senator Coseteng
Senator Enrile

ABSTENTION - 1

Senator Sotto III

RESULT OF THE VOTING

The President. With 13 affirmative votes, two negative votes, and one abstention, Senate Bill No. 1399 is approved on Third Reading.

Senator Enrile. Mr. President, I would like to state my vote.

The President. The Gentleman may do so.

Senator Enrile. Mr. President, my vote is a negative vote.

The President. Senator Magsaysay is recognized.

**EXPLANATION OF VOTE OF
SENATOR MAGSAYSAY**

Senator Magsaysay. Thank you, Mr. President.

I stand before my Colleagues filled with great pride as we approve on Third and Final Reading Senate Bill No. 1399, the bill amending the Foreign Investments Act of 1991.

The approval of this measure sets another milestone in the matter of transcending nationality barriers in the country's quest for competitiveness with other ASEAN nations and the rest of the world in attracting foreign investments.

In a nutshell, Senate Bill No. 1399 seeks to further liberalize the entry of foreign investments into the country to allow greater infusion of much-needed capital and the introduction of highly advanced technological know-how that will aid Filipino entrepreneurs and Philippine products in attaining excellence and global competitiveness.

Indeed, the entry of more foreign investors and increase in much-needed capital inflow will stimulate further economic activities towards the attainment of our national goal of economic stability and self-sufficiency.

Mr. President, the bill does not intend to take away the first prerogative of the Filipino people in the matter of establishing business and undertaking other economic activities in our

country. On the contrary, the objective of the bill is precisely to enhance the competitiveness and viability of Filipino industries. After all, we can always be sure that the Filipino investors have the genuine interest in our country's economic development.

The bill seeks to announce to the world that the Filipino entrepreneur is ready and able to compete in the true spirit of a free economy.

Being the first among the neophyte Senators of this Tenth Congress to receive the baptism of fire, I am imbued with the spirit to have come this close to its final passage. My happiness reflects the satisfaction of those who painstakingly exerted time and effort to put Senate Bill No. 1399 together.

As we all know, Senate Bill No. 1399 is a consolidation of Senate Bill No. 340 authored by Senator Macapagal and Senate Bill No. 855 introduced by Senator Drilon.

The valuable contribution and participation of Senators Macapagal and Drilon, which led to the birth of Senate Bill No. 1399, speak well of their sincere and unending commitment to the upliftment of the lives of the Filipino people.

I am also likewise grateful to the Board of Investments (BOI), the National Economic Development Authority (NEDA), the Department of Trade and Industry (DTI), other government as well as private entities, and the chambers of commerce of different nations, for the information and know-how that they have imparted in the formulation of Senate Bill No. 1399. Their selfless cooperation is an example of the many milestones we can attain through constant consultations and vigilance serving as our partners in pushing for national development.

I would also like to extend the same token of appreciation to my Colleagues in this august Chamber, the entire Senate staff, who, day and night, labored for this bill keeping in mind the noble objectives of this proposed legislation.

As Pres. John F. Kennedy once said, "The success of business and government are intertwined. More than an attitude of truce, more than a treaty, government and business should seek the spirit of a full-fledged alliance."

With almost a majority, if not all of the Senators, participating in the deliberation of this bill, I would say that we have arrived at a unified position to further liberalize foreign investments.

It is for this reason, Mr. President, that I proudly register my

positive vote for this piece of legislation.

Thank you.

Senator Sotto. Mr. President.

The President. Senator Sotto is recognized.

Senator Sotto. Mr. President, I cast a vote of abstention and reserve the right to submit a written explanation of my vote.

Senator Macapagal. Mr. President.

The President. Senator Macapagal is recognized.

EXPLANATION OF VOTE OF SENATOR MACAPAGAL

Senator Macapagal. Ginoong Pangulo, bilang pagpaliwanag ng aking boto sa Senate Bill No. 1399 na ini-sponsor ni Senator Magsaysay Jr., gusto ko po lamang isalaysay ang dinaanang kasaysayan ng panukalang batas na ito.

Noong Ninth Congress, nang ako pa ang Chairman ng Committee on Economic Affairs, talagang ayaw kong iharap ang panukalang batas na ito sa Senate Floor dahil marami na tayong ginawang liberalization measures: Ang sabi ko, parang ito ang last frontier o hangganan ng mga lugar na puwede nating iwan sa ating sariling mga negosyante. Kaya lamang, bagamat halos natapos na natin iyong ating economic reforms noong Ninth Congress, parang napilitan na rin tayong tapusin ang lahat ng mga economic reforms sa Tenth Congress.

Kaya kahit mabigat ang aking loob sa ibang panukalang batas noon, kagaya nga nito, pati na rin iyong liberalization of retail trade, bilang isang team player ay kinakailangang ituloy ko iyong legislative agenda ng Lakas-Laban coalition, at iniharap ko itong panukalang batas noong magsimula ang Tenth Congress.

At pinilit ko ngang iharap ito sa kundisyong hindi lubos na mawawalan ng proteksiyon ang ating mga negosyante. Kaya sinikap kong mapasama pa rin iyong List C.

Narito tayo ngayon at nagbobotohan. Masasabi ko na higit na magaan ang loob kong bumoto sa panukalang batas na ito dahil higit na magandang lumabas itong panukalang batas ngayon kaysa roon sa administration measure na iniharap noong Ninth Congress at Tenth Congress.

Ang nagpaganda sa panukalang batas na ito ay iyong kontribusyon ng aking dalawang kasama, si Senador Drilon at si Senador Herrera. Iyong susog ni Senador Drilon ay nagbibigay

ng karapatan sa ating mga Pilipino na nagkaroon na ng ibang citizenship sa iba't ibang kadahilanan, Pilipino pa rin ang naghahari sa kanilang damdamin at gusto nilang tumulong sa pag-unlad ng ating ekonomiya. Iyon na nga ang nagbibigay ng karapatan sa mga dating Filipino citizens na pumasok sa mga negosyo na para sa Pilipino lamang, maliban doon sa ipinagbabawal ng ating Saligang Batas.

Iyon namang susog ni Senador Herrera ay nagbibigay rin ng karapatan sa mga dating Pilipino na magkaroon ng lupa upang makapagpatayo ng negosyo na makakatulong sa ating bansa.

Ang panukalang batas ni Senador Drilon na naging bahagi ng panukalang batas na ito, ay nagkaroon ng napakasalimuot na diskusyon. Halos mawala na iyon dahil sa iniharap na mga panukalang susog. Halos tanggalin na iyon.

Ngunit noong magtanong ang Chairman natin sa inyong lingkod kung papayag akong tanggalin na lamang natin iyong bahagi ng panukalang nanggaling kay Senador Drilon, ang sabi ko ay boboto ako kontra sa susog na tanggalin iyong bahagi ng panukalang iniharap ni Senador Drilon. Sapagkat iyon talaga ang kailangan ng ating bansa upang makuha natin ang tulong ng mga Pilipinong nakatira na sa ibang bansa. Kahit nawala ang pagkamamamayang Pilipino nila, ang puso nila ay Pilipino pa rin.

Kaya, Ginoong Pangulo, dahil sa napakagandang susog na naipasok dito sa pamamagitan ng pagkokombina sa panukalang batas ni Senador Drilon at gayundin sa napakagandang susog ni Senador Herrera, lubos akong nakumbinsi sa aking sariling panukalang batas. Dahil doon, Ginoong Pangulo, ang aking boto ay *Oo*.

Senator Flavier. Mr. President.

The President. Senator Flavier is recognized.

EXPLANATION OF VOTE OF SENATOR FLAVIER

Senator Flavier. Ginoong Pangulo, tutol sana ako sa panukalang batas na ito dahil noong una ay nakalagay na ang mga banyagang anak ng mga dating Pilipino ay bibigyan na rin ng karapatan. Sapagkat ang bahaging iyon ay inalis na, ako ay buong pusong bumoboto sa panukalang batas na ito.

Marami pong salamat.

Senator Coseteng. Mr. President, I cast a negative vote.

Senator Romulo. Mr. President, we shall propose later in the session that the Senate panel will meet with the House panel

in the Bicameral Conference Committee.

Mr. President, we shall resume consideration of the Agricultural Tariffication Act—Senate Bill No. 1450. We are in the period of interpellations. Scheduled for interpellation this afternoon is the distinguished Minority Leader.

SUSPENSION OF THE SESSION

Before we resume consideration of the bill, may I ask for a short suspension of the session.

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

It was 4:25 p.m.

RESUMPTION OF THE SESSION

At 4:26 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING S. No. 1450 - Agricultural Tariffication Act (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1450 as reported out under Committee Report No. 61.

The President. Resumption of consideration of Senate Bill No. 1450 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. I ask that the Sponsor of the bill and the Chairman of the Committee on Agriculture and Food, Senator Shahani, with Senator Angara to interpellate, be recognized.

The President. Senator Shahani and Senator Angara are hereby recognized for purposes of sponsorship and interpellation, respectively.

Senator Angara. Thank you very much, Mr. President. Will the distinguished Sponsor answer some questions for clarification?

Senator Shahani. Mr. President, we shall be pleased to entertain questions from the distinguished Minority Leader.

Senator Angara. Mr. President, I will try not to overlap the areas already covered by the brilliant intervention yesterday

record that if I made a mistake in my recollection of the Rules, I accept my mistake.

To satisfy the desire of the Lady Senator from Pampanga, whether I was in error in invoking a rule, I stood on a matter of personal privilege which is the right of every Member of this Chamber, to ask for a copy of a material that was being used in the discussion, and which material, I understood to be available in the Senate. If that is not so, then I must admit my error and I so state it in the *Record*.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. We are still debating on the tariff bill, Mr. President.

The President. Both Senators Shahani and Macapagal have the Floor.

Senator Shahani. Mr. President, before the session was suspended, we will recall that the point of discussion was the understanding on Rules and Procedures Governing the Settlement of Disputes by the Dispute Settlement Body. This is found on page 353. I have the same document which I believe Senator Macapagal also has. I was just going to read from my own notes a summary of what this understanding on the rules and procedures was in order to facilitate the discussion on this complicated issue. That was all that I was trying to do. But the text is right before the person who wishes now to interpellate me.

Senator Macapagal. Mr. President, can the distinguished Sponsor specify those portions of the text that spell out the rules that will be followed in bringing about the dispute for settlement case against the Philippines?

First, the initiation of the dispute settlement. What portion of the rules in Annex 2 can be quoted to guide us regarding the initiation of the dispute settlement? Let us begin with that.

Senator Shahani. Mr. President, any person who understands the English language will find it easy to understand.

Senator Macapagal. Mr. President, maybe I do not understand the English language but it is a very long Annex 2. May we just find a sentence, the page, the paragraph where the initiation of the dispute settlement can be pointed out?

Senator Shahani. Mr. President, this is an international agreement which has been carefully crafted. It cannot just be found in captioned form. This is, after all, part of international law.

Article 3 talks about the general provisions. And all of these preliminary statements are so important before we decide whether we do want to be subject of a case before the DSB. Article 3, Section 4 states: "Recommendations or rulings made by the DSB shall be aimed at achieving a satisfactory settlement of the matter in accordance with the rights and obligations on this understanding and under the covered agreements."

Paragraph 7, under the same article, says: "Before bringing a case, a member shall exercise its judgment as to whether action under this procedure would be fruitful. The aim of the dispute settlement mechanism is to secure a positive solution to a dispute."

So, Mr. President, there are fairly elaborate preliminary consultations and measures to be undertaken which will not figure here. I think the message we should get under Article 3 is that all measures should be exhausted before a dispute is brought before the DSB.

Senator Macapagal. Exactly, Mr. President, that is the point I was trying to bring up. It does not mean that if we do not pass this measure on March 26, or whatever is the deadline that has been given, the very next day we lose our MFN status.

Senator Shahani. That was never said, Mr. President. We do not lose it the next day. I do not think the Sponsor ever said that.

Senator Macapagal. When do we lose it, Mr. President?

Senator Shahani. There are certain procedures here. The first stage of settling disputes is the holding of consultations between the members concerned. Any member should reply promptly within 10 days to a request for consultations and enter into consultations within 30 days from the date of the request.

Senator Macapagal. That is what is going to happen if we do not pass the bill. The worse that can happen is that consultations will be called. And what are consultations? Are they not the formal language, meaning further negotiations? Does this not mean that the party will sit down and ask us, "What is the matter, Philippines? Why can't you pass this bill?" And then we can explain that our farmers are still waiting for the tariffs to be enacted.

Senator Shahani. Mr. President, I think that it is not only agricultural products which are at stake here. If a member-state will see that we are not fulfilling our requirements in the area of agriculture, it is possible that there would be retaliation. It will not be immediate, of course. But that already opens us to a difficult position where those products which we have primarily

depended on as exports now face the possibility of being slapped higher tariffs or being taken out in other areas other than agriculture. I think this has to be understood, Mr. President. Agriculture is just one aspect of the entire GATT system.

Senator Macapagal. I am glad the distinguished Sponsor said that this is just one aspect. In fact, the tariffication or the removal of quantitative restrictions is also just one aspect. There are other aspects that we can also take up with them in consultation. For instance, there is compliance with the sanitary and phytosanitary standard commitments that have been made to us.

Senator Shahani. Mr. President, I wonder whether a country like us can afford this luxury of discussing the issue *ad infinitum* and using dilatory tactics. The issue of consulting with our farmers has already been done. I am not saying that the procedure is perfect. But nothing will be perfect under this procedure especially with a country which has traditionally neglected its agricultural sector. And no amount of consultation at this stage is going to solve the issue.

I think the important thing is, we accept the challenge of being part of the World Trade Organization; we accept the responsibilities imposed on us; we cope with the imperfections of the procedures; and without losing anymore time, we straight away implement all of those safety net measures which are in here, Mr. President. What a member-country can do to help its agricultural measures are so many in this.

If the Lady Senator would want, we can even distribute it tomorrow, Mr. President. But to delay, to be the first country to renege on the repeal of its quantitative restrictions just because we feel we have not consulted enough—I have asked the officials of the Department of Agriculture and, in fairness to them, they have done their consultations. Our delegation is ready to leave on March 26, 1996. The committee adjourns on March 28, and that is it. So, why should we go to any trouble of entering into an elaborate and legalistic procedure where we shall be spending money—\$300 for board and lodging—to send our legal experts again to Geneva just to follow up on this issue?

I think prudence dictates that if we cannot get exactly what we want now, let us work hard and see how we can, within the system, become stronger in some of these areas, Mr. President. I think it does not bode well if this is the approach we take towards the issue before us.

Senator Macapagal. Mr. President, the original deadline for lifting quantitative restrictions was July 1995. When was the bill filed to tariffy?

Senator Shahani. Mr. President, the first bill on tariffication was filed in the House of Representatives in February 1995 in the Ninth Congress.

Senator Macapagal. What about in the Tenth Congress?

Senator Shahani. In the Tenth Congress, Mr. President, the bill on tariffication was refiled in August 1995.

Senator Macapagal. So, why did we not file the bill earlier when our deadline was July? Why was it delayed until August?

Senator Shahani. Mr. President, as far as our Committee on Agriculture and Food was concerned, we went ahead and filed the bill on tariffication in August 1995.

Senator Macapagal. So, the Committee itself was already late for the deadline. Why?

Senator Shahani. Since the Ninth Congress could not act on it, and the Tenth Congress met on July 21, it had to be refiled, Mr. President.

Senator Macapagal. The bill could have been filed on June 30, 1995, Mr. President.

Senator Shahani. I do not think we were organized that well, Mr. President. And as far as this Representation is concerned, I believe we waited for the House to take the initiative.

Senator Macapagal. Why did we have to wait for the House? This is not a tax measure; this is not an appropriation measure.

Senator Shahani. It is still a tariffication measure, Mr. President.

Senator Macapagal. But there are no tariffs specified in the bill. That is the point of my objection, in fact.

Senator Shahani. Mr. President, I said earlier that the House version has the schedules of tariffs. And in our case, since we could not wait—I think the House has just finished with the interpellations and amendments—we had to do two things: We had to consult with the House very carefully but, at the same time, we also came up with our own version allowing the President to set the tariff rates.

Senator Macapagal. Mr. President, did the original House version, in fact, not contain tariff rates in the Ninth Congress and in the original version in the Tenth Congress?

RECORD OF THE SENATE

MONDAY, MARCH 25, 1996

OPENING OF THE SESSION

At 4:16 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 72nd session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Marcelo B. Fernan. After which the Senate Choir will lead us in the singing of the Philippine National Anthem.

Everybody rose for the opening prayer.

PRAYER

Senator Fernan.

Lord Almighty, Fountain of all Wisdom, bless us once more as we gather in Your presence, seeking the light of Your Guidance for all our labors.

There is so much we need to do, O Lord, for the people we are sworn to serve, yet so little time to do all.

Grant to us the gift of discernment, so that, like separating chaff from the grain, we may quickly see and understand those tasks and concerns which are of utmost importance, urgency and meaning to the needs and aspirations of the greater number of the Filipino people.

Help us to use every moment fruitfully, keenly aware of the truth that as the people's servants, we have neither the right nor the privilege to make them wait while we savor the false security of believing that there is time enough to do what needs be done.

Infuse us with the spirit of humility and courage that we may transcend the boundaries of our persuasions and political brotherhoods, to embrace all our colleagues as equal partners in a common labor to seek only the greater good for all our people.

And above all, bless us with the gift of purposive persistence to use the law and the legislative processes as enduring instruments to achieve social peace, social justice and social growth.

Cleanse us of selfishness and pride, O Lord so that we may see more clearly how You have brought us here, and why. And in discerning Your will, help us to obey it faithfully and unselfishly.

We ask these, O Lord, confident in Your memory, with praise in our hearts and eternal gratitude to Your goodness.

Amen.

NATIONAL ANTHEM

Everybody remained standing for the singing of the National Anthem.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may we ask for a short suspension of the session.

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

It was 4:20 p.m.

RESUMPTION OF THE SESSION

At 4:21 p.m., the session is resumed.

The President. The session is resumed.

ROLL CALL

The Secretary will please call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Anna Dominique M. L. Coseteng	Present*
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Marcelo B. Fernan	Present
Senator Juan M. Flavier	Present
Senator Ernesto F. Herrera	Present*
Senator Gregorio B. Honasan	Present
Senator Gloria M. Macapagal	Present
Senator Ernesto M. Maceda	Absent**
Senator Ramon B. Magsaysay Jr.	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator Sergio R. Osmeña III	Present*
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present

* Arrived after the roll call

** On account of illness

CREATING THE AGRICULTURAL COMPETITIVENESS, TARIFFICATION FUND, AND PROVIDING FUNDS THEREFOR,

to which it requests the concurrence of the Senate.

Very truly yours,

(Sgd.) CAMILO L. SABIO
Secretary General

The Honorable
NEPTALI A. GONZALES
President of the Senate
Manila

The President. Referred to the Committees on Agriculture and Food; and Ways and Means.

RESOLUTION

The Acting Secretary [Atty. Raval]. Proposed Senate Resolution No. 360, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE FOR THE EXECUTIVE BRANCH TO FULLY IMPLEMENT REPUBLIC ACT NO. 8042 OTHERWISE KNOWN AS THE "MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995" AND FOR THE JUDICIARY TO ACT WITH DISPATCH ON THE PENDING CASES INVOLVING THE SAME IN VIEW OF INCIDENTS, REPORTS AND RECENT DEVELOPMENTS EXPOSING THE MIGRANT WORKERS AND THEIR FAMILIES TO UNDUE DANGERS, DISADVANTAGES AND MISERIES ON ACCOUNT OF ITS FEEBLE IMPLEMENTATION

Introduced by Senators Herrera, Angara, Ople, Drilon, Fernan, Macapagal, and Tatad.

The President. Referred to the Committees on Labor, Employment and Human Resources Development; and Justice and Human Rights.

COMMUNICATION

The Acting Secretary [Atty. Raval]. Memorandum from Bangko Sentral ng Pilipinas Governor Gabriel Singson dated March 20, 1996, submitting to the Senate pursuant to Republic

Act No. 7653, the Report on Movements in the Price level, Monetary Aggregates and Credit, January-February 1996.

The President. Referred to the Committee on Banks, Financial Institutions and Currencies.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Two Bicameral Conference Committee Reports had been filed with the Office of the Secretary. These are on Senate Bill No. 1399 with House Bill No. 5029, Liberalizing Foreign Investments, Amending Republic Act 7042; and Senate Bill No. 1253 with House Bill No. 5264 on the Downstream Oil Industry Deregulation Act.

SUSPENSION OF THE SESSION

Before we ask the Chairman of the Senate panel to report on the Bicameral Conference Committee Report, may I just ask for two-minute suspension of the session, Mr. President.

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

It was 4:28 p.m.

RESUMPTION OF THE SESSION

At 4:29 p.m., the session was resumed.

The President. The session is resumed.

CONFERENCE COMMITTEE REPORT ON
S. NO. 1399/H. NO. 5029
(Liberalizing Foreign Investments)

Senator Romulo. Mr. President, may I ask that we now consider the Bicameral Conference Committee Report on Senate Bill No. 1399 and House Bill No. 5029, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT 7042, AND FOR OTHER PURPOSES.

Mr. President, this Bicameral Conference Committee Report has been filed with the Office of the Secretary and both the Senate and the House panels have signed this report.

In the case of the Senate panel, all the members of the panel

have signed recommending the approval of this Conference Committee Report.

May I ask that the Chairman of the Senate panel, Senator Magsaysay, be recognized to render the report.

The President. Senator Magsaysay is hereby recognized.

Senator Magsaysay. Thank you, Mr. President. As Chairman of the Senate panel of the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1399 and House Bill No. 5029, entitled "An Act to Further Liberalize Foreign Investments, Amending for the Purpose Republic Act No. 7042, and for Other Purposes," I have the honor to report to this Chamber that the Senate and the House panels have met and have agreed to recommend that the bill, as reconciled and approved by the conferees, be ratified by my Colleagues.

The following are the highlights of what were agreed upon:

1. The conferees adopted Section 1 of the Senate version. This is an expansion of the definition of the term "Philippine national."

2. Section 2 of the House version provided for the list of investment areas reserved to Philippine nationals or the foreign investment Negative List, which is composed of Lists "A" and "B", was adopted as Section 3 of the final version. This deleted the Negative List "C" after a lengthy and very passionate discussion with our House counterpart on the position of both houses.

After conferring with the Senate panel, and with a vote of 2 to 1, the House version was finally adopted. The Committee agreed that we must show and send a strong signal to foreign investors that we are serious in our objective of opening up to them by truly liberalizing our investment areas.

3. Section 4 of the Senate version was adopted as Section 5 of the final version with some modifications. This is a new proviso which is a reiteration of Section 8, Article XII, of the Constitution, as well as of Batas Pambansa Blg. 185 on the ownership of land by any natural-born Filipino citizen who has lost Philippine citizenship and has a legal capacity to enter into contract under Philippine laws.

The residential purpose has been deleted and what was added were the words "OR OTHER" in between the words "business" and "purposes" to be more consistent with the concept of trade investments in the Philippines.

After all the disagreeing provisions were ironed out, the Committee has approved the reconciled version which is now before this Chamber for ratification.

Thank you, Mr. President.

Senator Angara. Mr. President.

The President. The Minority Leader is hereby recognized.

Senator Angara. Mr. President, just one question for clarification.

The Senate panel agreed to the deletion of the Negative List "C". Can the Gentleman tell us the reason why the House panel was able to prevail on the Senate panel to agree to the deletion of Negative List "C"?

Just for background, the Negative List "C" is our last-ditch effort at protecting certain Filipino enterprises against unfair foreign competition. And if we lift it, as we are now doing, we would have practically rendered our Filipino entrepreneurs and business firms helpless in the case of unregulated and continuous flow of investment into the country.

Can the Gentleman tell us the reason why the Senate panel agreed to the deletion?

Senator Magsaysay. Mr. President, we finally accepted the deletion of Negative List "C", which the House version did not contain, since nobody since 1991 had applied with the NEDA, which is the agency that is supposed to process application for areas of investment which are already served adequately by Filipino businessmen.

Senator Angara. Yes, Mr. President. I understand that the House did not provide for this. But we were all made to understand that the Senate panel, or at least, the Senate, is quite strong in retaining this because this represents almost the last bulwark for the Filipino entrepreneur. The fact that no one has applied to reserve an industry in the Negative List does not indicate that we are not interested in providing this standby reserve power so that we can extend this protection to Filipino entrepreneurs.

I am sure that the Senate panel must have a reason for acceding to the deletion of this negative list, and we would be very much interested, to know for the record, why we did so, Mr. President.

Senator Magsaysay. I would like to mention here, Mr. President, that the Senate members of the Bicameral Conference

Committee, namely, Senators Raul Roco, Frank Drilon and myself, fought vigorously and tenaciously to retain Negative List "C". However, since the House Bicameral Committee had given most of what we asked for, especially the ownership of land and also the practice of business in so many activities before which were closed to former Filipinos, and, of course, the fact that only one attempt was made to make use of the NEDA through Section 9 of the law to fall under Negative List "C", but was subsequently abandoned by one aspect of the insurance industry sector, we finally felt the majority had to put a vote among the three of us.

And if we would come out with the bill, the bicameral version, then that will address the objective of sending a very strong message to foreign investors—that we are liberalized and we welcome capital through the deletion of Negative List "C".

The Minority Member, Senator Drilon, was outvoted by Senator Roco and this Representation, as Chairman of the Bicameral Conference Committee, Mr. President.

Senator Angara. When the Eighth Congress, Mr. President, enacted the liberalization of the foreign investments in our country, one of the compromises forged—I remember very distinctly—is the fact that we are going to set up a protective device to some areas reserved to Filipinos, and the Negative List "C" was really that protective device.

It is all right that we are not availing of it for the moment because at present, we need foreign investments, but I think totally eliminating it will also send a conflicting signal to our own entrepreneurs in this country. Let us not gloss over the fact that much of the investments being made in this country are still largely of domestic origin. The foreign investment is not sufficient to fill up the void in the lack of domestic savings. Much of the investments being poured in our country are still being made overwhelmingly by domestic investors.

So, does the Gentleman not think that totally eliminating this standby—and I emphasize standby—because we have not actually availed of it—reserve protection is also a bad signal to our own entrepreneurs.

Senator Magsaysay. Mr. President, we reluctantly agreed to delete Negative List "C" which does not contain any item when the deletion was made. In five years, the Negative List "C", as I mentioned earlier, was never really availed of and availed to by businessmen. We also have to take into account that the administration version is without the Negative List "C".

Actually, the Committee invited the representatives of the Philippine Chamber of Commerce and Industry and the Feder-

ation of Philippine Industries to support us in trying to keep the Negative List "C" provision intact in the bicameral version. We did our best to no avail and we had to compromise.

At any rate, Mr. President, I understand that if there is really a sector that feels aggrieved, that there is too much competition in an area of investment, it can always go to the Legislature and have a special law to protect it. But I doubt if any Filipino will do that now since Filipinos are supposed to be prepared to compete vigorously and actively without being pampered by protectionism. Filipinos can compete well and they can succeed well, Mr. President.

Senator Angara. Mr. President, I, for one, am for an open trade and investment regime. But the route being suggested to us—if an industry feels adversely affected by the Foreign Investments Law that it can go to Congress for relief—is, precisely, the one we tried to avoid because we know that going to Congress for relief is going to be a protracted, very difficult and chancy proposition. That is why we instituted an administrative mechanism whereby the NEDA, upon complaint or petition of an affected industry, can hold a public hearing and determine whether that industry is being unfairly invaded and ought to be protected and reserved to Filipinos.

But nonetheless, Mr. President, I just wanted to raise this point because this Negative List "C" was one of the balancing provisions we inserted in the original Foreign Investments Act in order to get as many of our Colleagues to pass it in 1989. This is one of the points being strenuously pushed forward by Senator Tañada and Senator Laurel at that time, and we shared their stand and position then.

I still believe that was a forward-looking device that is extending a word of reassurance to our countrymen—that while we open the doors to foreign investments, we are also not closing our eyes to the fact that if they need protection, there is an administrative mechanism and procedure that will extend to them that hand of protection. But with this amendment, we are eliminating or cutting off that hand of protection even to our own countrymen.

Thank you, Mr. President.

Senator Magsaysay. Thank you, Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, before we vote and approve the measure, may I ask for a short suspension of the session.

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

It was 4:44 p.m.

RESUMPTION OF THE SESSION

At 4:46 p.m., the session was resumed.

The President. The session is resumed.

APPROVAL OF CONFERENCE COMMITTEE REPORT
ON S. NO. 1399/H. NO. 5029

Senator Romulo. Mr. President, I move that we vote for the approval of the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 1399 and House Bill No. 5029, Liberalizing Foreign Investments.

The President. We shall now vote on the bill. As many as are in favor of the approval of the Conference Committee Report on the disagreeing provisions of Senate Bill No. 1399, entitled "An Act to Further Liberalize Foreign Investments, Amending for the Purpose Republic Act No. 7042" and House Bill No. 5029, entitled "An Act to Further Liberalize Foreign Investments, Amending for the Purpose Republic Act No. 7042, and for Other Purposes" will please say *Aye*. [*Several Senators: Aye*] As many as are against will please say *Nay*.

I see Senator Coseteng casting a negative vote.

The said Conference Committee Report is hereby approved.

The following is the full text of the Conference Committee Report:

CONFERENCE COMMITTEE REPORT

The Conference Committee on the disagreeing provisions of Senate Bill No. 1399, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES,

and House Bill No. 5029, entitled

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE

PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES,

having met after full and free conference, has agreed to recommend and do recommend to their respective Houses that Senate Bill No. 1399, in consolidation with House Bill No. 5029 be approved in accordance with the attached copy of the bill as reconciled and approved by the conferees:

CONFEREES ON THE PART OF THE HOUSE OF REPRESENTATIVES:

(Sgd.) HON. FELICITO C. PAYUMO

(Sgd.) HON. MARGARITO B. TEVES

HON. ALBERTO J. LOPEZ

(Sgd.) HON. MANUEL A. ROXAS

(Sgd.) HON. JUNIE E. CUA

HON. MANUEL VILLAR

(Sgd.) HON. ROGELIO M. SARMIENTO

HON. RAMON S. BAGATSING

HON. ELIAS LOPEZ

CONFEREES ON THE PART OF THE SENATE:

(Sgd.) HON. RAMON B. MAGSAYSAY JR.

(Sgd.) HON. RAUL S. ROCO

(Sgd.) HON. SERGIO OSMEÑA III

(Sgd.) HON. FRANKLIN M. DRILON

AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES

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

SECTION 1. Section 3, paragraph (a), of Republic

Act No. 7042, otherwise known as the "Foreign Investments Act of 1991," is hereby amended to read as follows:

"Sec. 3. *Definitions.* - as used in this Act:

a) the term 'Philippine national' shall mean a citizen of the Philippines; or a domestic partnership or association wholly owned by citizens of the Philippines; or a corporation organized under the laws of the Philippines of which at least sixty percent (60%) of the capital stock outstanding and entitled to vote is owned and held by citizens of the Philippines; OR A CORPORATION ORGANIZED ABROAD AND REGISTERED AS DOING BUSINESS IN THE PHILIPPINES UNDER THE CORPORATION CODE OF WHICH ONE HUNDRED PERCENT (100%) OF THE CAPITAL STOCK OUTSTANDING AND ENTITLED TO VOTE IS WHOLLY OWNED BY FILIPINOS [; PROVIDED, THAT THEY REGISTER AS DOING BUSINESS IN THE PHILIPPINES UNDER THE CORPORATION LAW;] or a trustee of funds for pension or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty percent (60%) of the fund will accrue to the benefit of Philippine nationals; *Provided*, That where a corporation and its non-Filipino stockholders own stocks in a Securities and Exchange Commission (SEC) registered enterprise, at least sixty percent (60%) of the capital stock outstanding and entitled to vote OF EACH of both corporations must be owned and held by citizens of the Philippines and at least sixty percent (60%) of the members of the Board of Directors OF EACH of both corporations must be citizens of the Philippines, in order that the corporation shall be considered a Philippine national."

SECTION 2. Sec. 7 of Republic Act No. 7042 is hereby amended to read as follows:

Sec. 7. Foreign Investments in Domestic Market Enterprises. - Non-Philippine nationals may own up to one hundred percent (100%) of domestic market enterprises unless foreign ownership therein is prohibited or limited by the CONSTITUTION AND existing

law or the Foreign Investment Negative List under Section 8 hereof."

["A domestic market enterprise may change its status to export enterprise if over a three (3) year period it consistently exports in each year thereof sixty percent (60%) or more of its output."]

SECTION 3. Section 8 of the Foreign Investment Act of 1991 is hereby amended to read as follows:

"Sec. 8. *List of Investment Areas Reserved to Philippine Nationals (Foreign Investment Negative List).* - The Foreign Investment Negative List shall have TWO (2) [three (3) components lists: [;] A[, AND B[, and C]:

"a) List A shall enumerate the areas of activities reserved to Philippine nationals by mandate of the Constitution and specific laws.

"b) List B shall contain the areas of activities and enterprises regulated pursuant to law:

"1) which are defense-related activities, requiring prior clearance and authorization from the Department of National Defense (DND) to engage in such activity, such as the manufacture, repair, storage and/or distribution of firearms, ammunition, lethal weapons, military ordnance, explosives, pyrotechnics and similar materials; unless such manufacturing or repair activity is specifically authorized, with a substantial export component, to a non-Philippine national by the Secretary of National Defense; or

"2) which have implications on public health and morals, such as the manufacture and distribution of dangerous drugs; all forms of gambling; nightclubs, bars, beer houses, dance halls, sauna and steam bathhouses and massage clinics.

"Small and medium-sized domestic market enterprises with paid-in equity capital less than the equivalent of TWO [five] hundred thousand US dollars (US\$200,000.00) [(US\$500,000.00)], are reserved to Philippine nationals [,unless]: *PROVIDED, THAT IF:*

(1) they involve advanced technology as determined by the Department of Science and Technology [.] OR (2) THEY EMPLOY AT LEAST FIFTY (50) DIRECT EMPLOYEES, THEN A MINIMUM PAID-IN CAPITAL OF ONE HUNDRED THOUSAND US DOLLARS (US\$100,000.00) SHALL BE ALLOWED TO NON-PHILIPPINE NATIONALS. [Export enterprises which utilize raw materials from depleting natural resources with paid-in equity capital of less than the equivalent of five hundred thousand US dollars (US\$500,000.00) are likewise reserved to Philippines nationals.]

"Amendments to List B may be made upon recommendation of the Secretary of National Defense, or the Secretary of Health, or the Secretary of Education, Culture and Sports, indorsed by the NEDA, or upon recommendation *motu proprio*, of NEDA, approved by the President, and promulgated by a Presidential Proclamation.

["c) List C shall contain the areas of investment in which existing enterprises already serve adequately the needs of the economy and the consumer and do not require further foreign investment, as determined by NEDA applying the criteria provided in Section 9 of this Act, approved by the President and promulgated in Presidential Proclamation.]

"The Transitory Foreign Investment Negative List established in Section 15 hereof shall be replaced at the end of the transitory period by the first Regular Negative List to be formulated and recommended by NEDA, following the process and criteria, provided in Sections 8 and 9 of this Act. The first Regular Negative Lists shall be published not later than sixty (60) days before the end of the transitory period provided in said section, and shall become immediately effective at the end of the transitory period. Subsequent Foreign Investment Negative Lists shall become effective fifteen (15) days after publication in A NEWSPAPER [two (2) newspapers] of general circulation in the Philippines: *Provided, however,* That each Foreign Investment Negative List shall be prospective

in operation and shall in no way affect foreign investment existing on the date of its publication.

"Amendments to LIST [Lists] B [and C] after promulgation and publication of the first Regular Foreign Investment Negative List at the end of the transitory period shall not be made more often than once every two (2) years."

SECTION 4. The Foreign Investment Act is further amended by inserting a new section designated as Section 9 to read as follows:

"SEC. [5] 9. INVESTMENT RIGHTS OF FORMER NATURAL-BORN FILIPINOS. - FOR PURPOSES OF THIS ACT, FORMER NATURAL-BORN CITIZENS OF THE PHILIPPINES SHALL HAVE THE SAME INVESTMENT RIGHTS OF A PHILIPPINE CITIZEN IN COOPERATIVES UNDER REPUBLIC ACT NO. 6938, RURAL BANKS UNDER REPUBLIC ACT NO. 7353, THRIFT BANKS AND PRIVATE DEVELOPMENT BANKS UNDER REPUBLIC ACT NO. 7906, AND FINANCING COMPANIES UNDER REPUBLIC ACT NO. 5980. THESE RIGHTS SHALL NOT EXTEND TO ACTIVITIES RESERVED BY THE CONSTITUTION, INCLUDING (1) THE EXERCISE OF PROFESSION; (2) IN DEFENSE RELATED ACTIVITIES UNDER SECTION 8 (B) HEREOF, UNLESS SPECIFICALLY AUTHORIZED BY THE SECRETARY OF NATIONAL DEFENSE; AND, (3) ACTIVITIES COVERED BY REPUBLIC ACT NO. 1180 (RETAIL TRADE ACT), REPUBLIC ACT NO. 5487 (SECURITY AGENCY ACT), REPUBLIC ACT NO. 7076 (SMALL-SCALE MINING ACT), REPUBLIC ACT NO. 3018, AS AMENDED (RICE AND CORN INDUSTRY ACT), AND P.D. 449 (COCKPITS OPERATION AND MANAGEMENT)."

SECTION [4] 5. The Foreign Investment Act is further amended by inserting a new section designated as Section 10 to read as follows:

"SEC. 10. OTHER RIGHTS OF NATURAL-BORN CITIZEN PURSUANT TO

THE PROVISIONS OF ARTICLE XII, SECTION 8 OF THE CONSTITUTION. - ANY NATURAL-BORN CITIZEN WHO HAS LOST HIS PHILIPPINE CITIZENSHIP AND WHO HAS THE LEGAL CAPACITY TO ENTER INTO A CONTRACT UNDER PHILIPPINE LAWS MAY BE A TRANSFEREE OF A PRIVATE LAND UP TO A MAXIMUM AREA OF FIVE THOUSAND (5,000) SQUARE METERS IN THE CASE OF URBAN LAND OR THREE (3) HECTARES IN THE CASE OF RURAL LAND TO BE USED BY HIM [AS HIS RESIDENCE OR] FOR BUSINESS OR OTHER PURPOSES. IN THE CASE OF MARRIED COUPLES, ONE OF THEM MAY AVAIL OF THE PRIVILEGE HEREIN GRANTED: *PROVIDED*, THAT IF BOTH SHALL AVAIL OF THE SAME, THE TOTAL AREA ACQUIRED SHALL NOT EXCEED THE MAXIMUM HEREIN FIXED.

"IN [THE] CASE THE TRANSFEREE ALREADY OWNS URBAN OR RURAL LAND FOR [RESIDENTIAL OR] BUSINESS OR OTHER PURPOSES, HE SHALL STILL BE ENTITLED TO BE A TRANSFEREE OF ADDITIONAL URBAN OR RURAL LAND FOR [RESIDENTIAL OR] BUSINESS OR OTHER PURPOSES WHICH WHEN ADDED TO THOSE ALREADY OWNED BY HIM SHALL NOT EXCEED THE MAXIMUM AREAS HEREIN AUTHORIZED.

"A TRANSFEREE UNDER THIS ACT MAY ACQUIRE NOT MORE THAN TWO (2) LOTS WHICH SHOULD BE SITUATED IN DIFFERENT MUNICIPALITIES OR CITIES ANYWHERE IN THE PHILIPPINES: *PROVIDED*, THAT THE TOTAL LAND AREA THEREOF SHALL NOT EXCEED FIVE THOUSAND (5,000) SQUARE METERS IN THE CASE OF URBAN LAND OR THREE (3) HECTARES IN THE CASE OF RURAL LAND FOR USE BY HIM [AS HIS RESIDENCE OR] FOR BUSINESS OR OTHER PURPOSES. A TRANSFEREE WHO HAS ALREADY ACQUIRED URBAN LAND SHALL BE DISQUALIFIED FROM ACQUIRING

RURAL LAND AND VICE VERSA."

SECTION 6. The National Economic and Development Authority, in consultation with the Board of Investments, the Department of Trade and Industry and Securities and Exchange Commission, shall prepare and issue the necessary primer and other information campaign materials regarding the Foreign Investments Act and the amendments introduced thereto, with copies of said materials furnished all the Philippine embassies, consulates and other diplomatic offices abroad and disseminated to Filipino nationals, former natural-born Filipino citizens, and foreign investors, within sixty (60) days after the effectivity hereof.

SECTION 7. The NEDA is hereby directed to make the necessary amendments to the implementing rules and regulations of Republic Act No. 7042 in order to reflect the changes embodied in this Act.

SECTION 8. Sections 9 AND 10 of Republic Act No. 7042 and all references thereto in said law are hereby repealed or modified accordingly. All other laws, rules and regulations and/or parts thereof inconsistent with the provisions of this Act are [likewise] hereby repealed or modified accordingly.

SECTION 9. If any part or section of this Act is declared unconstitutional for any reason whatsoever, such declaration shall not in any way affect the other parts or sections of this Act.

SECTION 10. This Act shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation in the Philippines.

Approved.

JOINT EXPLANATORY STATEMENT OF THE CONFERENCE COMMITTEE

The Conference Committee of the Senate and House of Representatives on the disagreeing provisions of Senate Bill No. 1399 and House Bill No. 5029 submits the following joint statement to both Houses in explanation of the amendments agreed upon by the conferees and recommended in the accompanying Conference Committee Report:

1. The conferees agreed to adopt the Senate

version as the working draft;

2. Section 1 of the Senate version was adopted as Section 1 of the final version;

3. Section 2 of the Senate version was likewise adopted as Section 2 of the final version;

4. Section 2 of the House version was adopted as Section 3 of the final version;

5. Section 5 of the Senate version was adopted as Section 4 of the final version with minor modifications by deleting the words "the" and "Presidential Decree" on page 9 line 6 of Senate Bill No. 1399;

6. Section 4 of the Senate version was adopted as Section 5 of the final version with the following modifications:

- a. On page 7, lines 17 to 18, the phrase "AS HIS RESIDENCE OR" was deleted;
- b. In line 18 of the same page, between the words "BUSINESS" and "PURPOSES", insert the words "OR OTHER";
- c. On the same page, line 24, delete the word "THE" between the words "IN" and "CASE";
- d. On page 7, line 25, delete the word "RESIDENTIAL";
- e. On page 8, line 1, delete the word "OR";
- f. On the same page and line, between the words "BUSINESS" and "PURPOSES", insert the words "OR OTHER";
- g. On the same page, line 3, delete the words "RESIDENTIAL OR";
- h. On the same page, line 4, between the words "BUSINESS" and "PURPOSES", insert the words "OR OTHER";
- i. On the same page, lines 16 to 17, delete the phrase "AS HIS RESIDENCE OR";
- j. On the same page, line 17, between the words "BUSINESS" and "PURPOSES", insert the words "OR OTHER";

7. Section 6 of the Senate version was adopted as Section 6 of the final version;

8. Section 4 of the House version was adopted as Section 7 of the final version;

9. Section 3 of the House version was adopted as Section 8 of the final version;

10. Section 8 of the Senate version was adopted as Section 9 of the final version; and

11. Section 9 of the Senate version was adopted as Section 10 of the final version.

In case of conflict between the statements/amendments stated in this Joint Explanatory Statement and that of the provisions of the consolidated bill in the accompanying conference committee report, the provisions of the latter shall prevail.

(Sgd.) HON. FELICITO C. PAYUMO
Chairman
House Panel

(Sgd.) HON. RAMON B. MAGYSAYSAY JR.
Chairman
Senate Panel

CONFERENCE COMMITTEE REPORT ON
S. NO. 1253/H. NO. 5264
(Downstream Oil Industry Deregulation Act of 1995)

Senator Romulo. Mr. President, may I ask that we consider the next Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 1253 and House Bill No. 5264, entitled "An Act Deregulating the Downstream Oil Industry Pursuant to Republic Act No. 7638 and for Other Purposes."

Mr. President, this report has been signed by the majority of the members of each House—the Senate and the House of Representatives. The majority recommends that the reconciled copy be approved by the House and the Senate.

To render a report on this Bicameral Conference Committee Report, I ask that the Chairman of the Senate panel, Senator Alvarez, be recognized.

The President. Senator Alvarez is recognized.

Senator Alvarez. Mr. President, I have the honor to report

RECORD OF THE SENATE

WEDNESDAY, MARCH 6, 1996

OPENING OF THE SESSION

At 4:27 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 65th session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

We shall be led in prayer by Sen. Francisco S. Tatad.

Everybody rose for the opening prayer.

PRAYER

Senator Tatad.

God our Father,
You made a covenant with Abraham,
You freed Your oppressed people through Moses,
You humbled Goliath by the hands of David,
You scattered kings and princes in their conceit,
and took their poor and powerless victims in Your embrace.

You made us Your children through Christ:
Save us from the snares of power, pleasure and profit,
Protect us from false protectors,
Deliver us from false deliverers,
Free us from our human weaknesses,
And keep us ever faithful to Your laws.

You are the light of men and nations:
Open our minds always to your truth,
Our hearts to Your mercy and justice,
Our whole being to Your love and grace,
Inflame us with the fire that inflamed the burning bush,
that lit the Magi's path toward the saving crib,
that blinded those who saw the transfigured Christ,
and lights the smallest corners of our earthly lives.

In the fight between good and bad,
between grace and sin, between life and death,
Keep us ever to Your side.

When our labors wear us down, strengthen us,
When we are puffed up with pride, humble us,
When we overflow from vanity, silence us.

Remembering what Your servant
Teresa of Calcutta teaches us:
"The fruit of silence is prayer,
The fruit of prayer is faith,

The fruit of faith is love,
The fruit of love is service,
The fruit of service is peace."

All this we ask in Jesus' Name,

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

- Senator Heherson T. Alvarez Present
Senator Edgardo J. Angara Present
Senator Anna Dominique M.L.Coseteng.. Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Absent**
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople *
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla *
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Present
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb Present
The President Present

The President. With 21 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection? [Silence] There

*On official mission
**On account of illness

being none, the reading of the *Journal* of the previous session is hereby dispensed with and the same is considered approved.

The Secretary will please read the Order of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1437, entitled

AN ACT INSTITUTIONALIZING A NATIONAL STRATEGY FOR SOCIAL REFORM AND POVERTY ALLEVIATION

Introduced by Senator Shahani.

The President. Referred to the Committees on Social Justice, Welfare and Development; Local Government; and Finance.

The Secretary. Senate Bill No. 1438, entitled

AN ACT DISAUTHORIZING THE PROVISION OF DIRECT GOVERNMENT GUARANTEE FOR THE FINANCING, CONSTRUCTION, OPERATION AND MAINTENANCE OF ANY INFRASTRUCTURE PROJECT UNDERTAKEN THROUGH BUILD-OPERATE-AND-TRANSFER (BOT) SCHEME AND SIMILAR VARIATIONS UNDER R.A. NO. 6957, AS AMENDED

Introduced by Senator Herrera.

The President. Referred to the Committee on Public Works.

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 332, entitled

RESOLUTION DIRECTING THE COMMITTEE ON PUBLIC SERVICES TO INQUIRE, IN AID OF LEGISLATION, INTO THE PRESENT STATE OF THE DOMESTIC MARITIME INDUSTRY, TO DETERMINE THE CAUSES OF THE GROWING NUMBER OF MARITIME ACCIDENTS, THE LATEST OF WHICH IS THE SINKING OF THE *M. L. GRETCHEN* IN CADIZ, RESULTING IN THE LOSS OF LIVES AND PROPERTY, AND TO COME UP WITH THE

NECESSARY REMEDIAL MEASURES TO PREVENT SIMILAR ACCIDENTS IN THE FUTURE

Introduced by Senator Tatad.

The President. Referred to the Committee on Public Services.

The Secretary. Proposed Senate Resolution No. 333, entitled

RESOLUTION DIRECTING THE COMMITTEES ON PUBLIC SERVICES; AND ENERGY TO INVESTIGATE, IN AID OF LEGISLATION, INTO THE REPORTED MORE THAN 3,000 STRUCTURAL FIRES THAT HIT THE COUNTRY IN 1995 AND KILLED AT LEAST 150 PEOPLE, WHICH WAS CAUSED BY LEAKING LIQUEFIED PETROLEUM GAS (LPG) AND SUBSTANDARD CYLINDERS, WITH THE END IN VIEW OF ABETTING THE OCCURRENCE OF THE SAME AND TO ENSURE DELIVERY OF SAFE AND STANDARD TANKS AND TO RECOMMEND APPROPRIATE EXECUTIVE OR LEGISLATIVE MEASURES OR BOTH, AND FOR OTHER PURPOSES

Introduced by Senator Shahani.

The President. Referred to the Committees on Trade and Commerce; and Energy.

BILL ON SECOND READING

S. No. 1399 — Liberalizing Foreign Investments, Amending RA 7042 (Continuation)

Senator Romulo. Mr. President, we shall now resume consideration of Senate Bill No. 1399 as reported out under Committee Report No. 45.

The President. Resumption of consideration of Senate Bill No. 1399 is now in order.

Last week, Mr. President, in the session of February 27, the amended copy of Senate Bill No. 1399, which is now in the black folder of each Senator, was adopted as the working draft to be used in the individual amendments, if any, to be proposed by the Members of this Body.

May I now ask that the distinguished Sponsor of the bill, the

Chairman of the Committee on Economic Affairs, Senator Magsaysay, be recognized.

The President. Senator Magsaysay is recognized.

Senator Magsaysay. Thank you, Mr. President.

Senator Romulo. May I also ask that the distinguished Senator from Pampanga, Pangasinan and Negros Occidental, Senator Macapagal, be recognized for her individual amendments.

The President. Senator Macapagal is recognized.

Senator Macapagal. Mr. President, I would like to find out whether we have already started the period of individual amendments or are we just about to start now?

Senator Romulo. We are about to start the period of individual amendments.

Senator Macapagal. So we have just finished with the Committee amendments?

Senator Romulo. That is correct.

Senator Macapagal. May I ask that we reconsider the Committee amendments?

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a one-minute suspension of the session.

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

It was 4:35 p.m.

RESUMPTION OF THE SESSION

At 4:36 p.m., the session was resumed.

The President. The session is resumed. Senator Macapagal is recognized.

Senator Macapagal. Mr. President, rather than asking for a reconsideration of the Committee amendments, I would like to propose that we restore the transitory provisions that were deleted in the Committee amendments. These are on pages 4 and 5, lines 19 until the end of the section.

Mr. President, the transitory provisions were among those that the industry as well as the government panelists in the hearings endorsed in making the Committee Report. I do not recall during the period of interpellations that there was anybody who questioned the transitory provisions. Therefore, to delete such provisions without any basis either in the Committee hearings or in the Floor debates, I think, Mr. President, is being unfair to those who are looking forward to the transitory provisions for having a longer lease on their protection as Philippine enterprises.

Senator Magsaysay. Mr. President, the transitory provisions are retained under Republic Act No. 7042. The bill of the Lady Senator from Pampanga has also the transitory provisions. But since the same transitory provisions are in the original law and we are only amending some provisions of the same law, it means that the same provisions will remain under Republic Act No. 7042.

May I know from the Lady Senator from Pampanga what other justification does she have for these transitory provisions included in Senate Bill No. 1399? Because as a point of reference, these provisions are still in Republic Act No. 7042.

Senator Macapagal. Mr. President, I do not see any provision in this bill that clarifies that everything that is in the old law is still in the law. The transitory provisions, in fact, should still be here explicitly because there are important industries that are mentioned in the transitory provisions. However, if the Gentleman is now making a declaration that the transitory provisions are still deemed to be retained in the present law, then I would withdraw my amendment.

At this juncture, the Senate President relinquished the Chair to the President Pro Tempore.

Senator Magsaysay. That is my statement earlier, Madam President. These same provisions remain and will still be part of the law.

Senator Macapagal. Madam President, I do not have a copy of the old law. May I know the number of the section in the old law that refers to the transitory provisions?

Senator Magsaysay. Madam President, under the old law, this is Section 15, Transitory Provisions. This includes List A, List B, and List C. These are the so-called negative lists.

Senator Macapagal. I recall, Madam President, when we were discussing this during the debates, there was a reference then to Section 15 in the present bill. But I do not see the reference anymore here in the Committee Report.

I remember then that Section 15 was amended. The reason why Section 15 was amended was that in the transitory provisions, in Section 15, there was in List B a reference to small and medium-sized domestic market enterprises with a paid-in capital of less than the equivalent of \$500,000.

There was also a provision referring to export industries with a paid-in equity capital of less than the equivalent of \$500,000. These were the reasons Section 15 was amended in our bill, and that was the reason I remember putting the transitory provisions again in my version of the bill.

If the reference to the transitory foreign investment negative lists is going to be deleted, does this not mean therefore that we are retaining the \$500,000 reference in Section 15, in the transitory provisions, because that was referred to twice?

I remember that was the reason I amended the transitory provision in my version of the bill, in order to reduce the \$500,000 to \$200,000.

Senator Magsaysay. The transitory provisions will therefore be for reference purposes only. We have followed the main author's amendment, specifically in reducing the \$500,000 paid-up capital to \$200,000.

Senator Macapagal. Yes, Madam President, but that amendment is carried in the Committee Report outside of the transitory provisions. If the Gentleman says that the transitory provisions remain in force, would it not be a fair interpretation that during a transitory period the limit would still be \$500,000?

Senator Magsaysay. Actually, Madam President, the transitory provision has already expired on October 24, 1994. But if the main author of the bill thinks that as a basis of reference on the negative lists, and she would like to insist in the retention of these transitory provisions although they have expired, this Representation has no problem with that; I can accept that.

Senator Macapagal. We have asked the industries to comment on the deletion of the transitory provisions, and they have asked to retain them. They hope there will be some interpretation in the transitory provisions that will continue some kind of protection to items in List B. For instance, the manufacture and distribution of dangerous drugs, gambling, night clubs. These things should not still be open for foreign investment during the transitory period.

Senator Magsaysay. Madam President, may I read my letter to Mr. Raul Concepcion of the Federation of Philippine Industries, with regard to the deletion of the transitory provision. The excerpt states:

....There appears, however, to be some confusion about the transitory provision of Republic Act No. 7042 which contains specific industry listing under the so-called Transitory Negative List C, and the Regular Negative List C under the main text of the law, Sections 8 and 9.

You will please note that the listing under Transitory Negative List C of the transitory provision includes:

1. Import and wholesale activities not integrated with production or manufactured goods.
2. Services requiring a license or specific authorization and subject to continuing regulation by national government, agencies other than BOI and SEC which at the time of the effectivity of this Act are restricted to Philippine nationals, and practice of the regulatory agencies concerned: *Provided*, That after the effectivity of this Act, no other services shall be additionally subjected to such restrictions on national ownership or the corresponding regulatory agencies. And such restrictions, once removed, shall not be reimposed.
3. Enterprises owned in the majority of a foreign-licensed board and/or its affiliates for the assembly, processing or manufacture of goods for the domestic market which are being produced by a Philippine national as of the date of effectivity of this Act under a technology know-how and/or brand name license from such licensor during the term of the license agreement: *Provided*, That the license is duly registered with the Central Bank of the Philippines and/or the Technology Transfer Board and is operatively enforced as the date of the effectivity of this Act.

Under Republic Act No. 7042, the transitory provisions were effective only for a period of three years, from the date of the effectivity thereof and the transitory period which expired on October 24, 1994.

So we still have the regular negative list in the law, Madam President.

We are talking of two things: the Transitory Negative List C which were being recommended for deletion, and the Regular Negative List C which is retained in Republic Act No. 7042.

Senator Macapagal. Madam President, is the Gentleman reading a letter to Mr. Raul Concepcion?

Senator Magsaysay. That is true, Madam President.

Senator Macapagal. What occasioned the writing of the letter to Mr. Concepcion?

Senator Magsaysay. This was a letter written to Mr. Raul Concepcion on his concern that there will be very little protection or alternative for Filipino industries that are threatened or embattled by foreign investments under this Act.

Senator Macapagal. I presume that the letter was addressed to Mr. Raul Concepcion because he is the president of the Chamber of Philippine Manufacturers.

Senator Magsaysay. That is correct, Madam President.

Senator Macapagal. So, as a representative of an industry sector that represents the philosophy of protecting domestic industries.

Senator Magsaysay. That is true, Madam President.

Senator Macapagal. And accepting that it is a legitimate philosophy, may we know what is the response of Mr. Concepcion to the letter of the Sponsor?

Senator Magsaysay. The Gentleman did not respond to the letter.

Senator Macapagal. The reason I am recommending the retention of the transitory provision is that I have received an expression of concern from the Chamber of Philippine Manufacturers, as well as from the small and medium-term enterprises whose representatives testified during the hearing conducted by the distinguished Sponsor. Since these two groups were considered worthy enough to be invited to the hearing, and they are considered worthy enough to have their concerns addressed even after the hearing, may I suggest that we defer action on this proposed amendment until we give them some reasonable time to respond to the letter of the distinguished Gentleman.

Senator Magsaysay. Madam President, as I mentioned earlier, if the Lady Senator from Pampanga would like the retention of the transitory provisions, I will accept the amendment.

Senator Macapagal. In that case, I will continue to propose the retention of the transitory provisions.

Senator Magsaysay. Thank you.

Senator Macapagal. Thank you, Madam President.

Senator Romulo. Madam President.

The President Pro Tempore. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a short suspension of the session, Madam President.

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

It was 4:51 p.m.

RESUMPTION OF THE SESSION

At 4:52 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Romulo. Madam President, may I ask that the distinguished Gentleman from Bicol and Bohol, Senator Roco, be recognized for his individual amendments.

The President Pro Tempore. Senator Roco is recognized.

ROCO AMENDMENTS

Senator Roco. Thank you, Madam President.

I have no amendments on page 1. If there is an antecedent amendment on page 1, I will yield, but if there is none, I will proceed to page 2.

On page 2, I will request the Sponsor, Madam President, to consider deleting lines 1 to 11, commencing from the words "*PROVIDED, FURTHER,*". This is the one that deals with the former natural-born citizens.

If I may be able to explain a little, Madam President. The proposed amendment really is largely unnecessary and may just be harmful to the bill. If this amendment is carried, we will be the only country with four categories of individuals investing in the Philippines. There will be a natural-born Filipino and a naturalized Filipino. And then we shall have natural-born foreigners—a natural-born foreigner and a nonnatural-born foreigner who is a former Filipino. It is a curiosity.

We shall now have natural-born foreigners and nonnatural-born foreigners, because there is nothing that these former natural-born citizens of the Philippines can really do.

It seems to me, Madam President, that it may be best for the bill if this can be avoided.

Furthermore, Madam President, under this proviso, one can argue that it is a rider. While we are enhancing and liberalizing the foreign investments, there seems no need to enhance particularly the capacity for the former natural-born citizens especially because of a new law which I discovered only last week.

Republic Act No. 8171, which gave former Filipino citizens an easy way to repatriate, lapsed into law on October 23, 1995 without the signature of the President. In fact, this is the law now being utilized by Governor Frivaldo.

So we now have former citizens having unnecessarily the same privileges as the Filipinos where they can certainly enjoy the liberalized atmosphere under the proposed bill. Maybe, Madam President, we can request the Sponsor to consider deleting this.

There is one further danger. Because of this provision, Madam President, we effect an implied amendment to several laws requiring a 100 percent nationalized activity, a legislative practice which is not favored.

For instance, we impliedly amend Republic Act No. 1180 or the Retail Trade Law. I do appreciate, Madam President, that in the interpellations, the answers to this question varied. But it seems to me, reading the bill, it will effect a repeal of certain portions of the Retail Trade Law. It will also modify certain portions of the Cooperative Law. It will also modify certain portions of RA No. 5487 or the Private Security Agencies Law. It will also modify Republic Act No. 7076 or the Small-Scale Mining Law. It will also modify Republic Act No. 3018 or the Rice and Corn Industry Law.

All we are saying, Madam President, if we specifically modify these laws, we may not even oppose it. But it seems not prudent to modify laws by inference without debate on policy. Why do we want to modify the Rice and Corn Industry Law by virtue of this bill? Why do we want to modify the Retail Trade Law by virtue of this bill instead of specifically addressing the Retail Trade Law?

Madam President, we will appeal to the Chair. I know this is the recommendation of the Senate President. But with all due respect, maybe we can do without this, without in any manner affecting the liberal intentions of the bill.

Senator Magsaysay. Madam President, the concern of the Gentleman from Bicol is well-appreciated. This provision, which came about from a bill filed by Senator Drilon and which

was accepted by the Committee as a Committee amendment, and included in the main bill of Senator Macapagal, is a very positive way for our government and our lawmakers to show, by amending the Foreign Investments Act, that although they have lost their citizenship, they are still welcome to their old country.

The concern is good. However, the reality is that everybody, all countries in this world, all of them, all of us are opening up to foreign investments. In fact, fighting for foreign investments is a very limited vision of trying to protect and trying to, maybe, even pamper our Filipino businessmen, whether they are practitioners of small, medium or large enterprise. Because the reality of the situation, Madam President, is that whether we protect them or not, when all the borders, tariff and nontariff restrictions are reduced—and every year they are being reduced to the WTO—then there is nothing to protect.

It is better for us to encourage, through this provision, these Filipinos who have gained not only capital, resources, and technology but who have also gained more fondness for their old country, because the majority of them would like to retire here or come back, and this provision will send a message that we are opening our arms to them; we are opening our country's economy, business, and other aspects of society; that they are safe to come back because in their hearts they are still Filipinos.

I regret to turn down the motion of the Gentleman from Camarines Sur of deleting this provision, which I feel has not really made a fourth classification of citizens but merely and simply states that these former natural-born citizens of our country who have lost their citizenship but would like to come back are most welcome. This provision will give substance to that national purpose, Madam President.

Senator Roco. Madam President, would the distinguished Sponsor kindly explain what rights these former citizens will get under this provision. To own land?

Senator Magsaysay. There is already a law on that, Madam President.

Senator Roco. Correct. So that is not needed.

Senator Magsaysay. Batas Pambansa No. 185.

Senator Roco. So this is not needed.

Senator Magsaysay. They can own up to 1,000 square meters of residential land and up to 10,000 square meters or one hectare for farm. This is exactly the same provision that the Senator from Quezon would like to include in this Act, Madam President.

Senator Roco. Considering that law, would the Gentleman share with us the information on how many former Filipino citizens availed of that privilege?

Senator Magsaysay. I have no data on that, Madam President. However, I have met with some Filipino-Americans recently on several occasions.

This BP 185 is not well-distributed. The law's provisions are not generally known. But I can surmise that a lot of Filipinos overseas who have become citizens of other countries will be very delighted to invest in land, whether residential, agricultural or commercial, in their own country.

Senator Roco. If it is not ownership, what exactly then are the rights that we are recognizing here, Madam President?

Senator Magsaysay. Rights of doing business.

Senator Roco. That is already granted under the other provisions. So why do we need this provision? They are granted the right to do business. In fact, they can own up to 60 percent. What more does the Gentleman want, 100 percent?

Senator Magsaysay. With this provision, they can own 100 percent.

Senator Roco. So that is really what the Gentleman is after.

Senator Magsaysay. Except those that the Constitution prohibits.

Senator Roco. What are those where they can own 100 percent which is not prohibited by the Constitution? Is it the retail trade?

Senator Magsaysay. Yes, Madam President, the retail trade which is under Republic Act No. 1180, cooperatives under RA 6938, private security agencies under RA 5487, rice and corn under RA 3018 and Presidential Decree No. 194, private equipment.

Senator Roco. And small-scale mining.

Senator Magsaysay. Yes, the Gentleman is right, Madam President.

Senator Roco. And exploitation of natural resources, therefore, can then be done by a non-Filipino. Is this correct?

Senator Magsaysay. Financing companies regulated by the SEC.

Senator Roco. And the financing companies.

Senator Magsaysay. Yes, Madam President.

Senator Roco. These are the things we want to share with them.

How does the Sponsor address the problem raised by the President Pro Tempore when she asked the question, "How about the succession of the children?" Because the second generation, especially those born abroad even in the United States, the parents may still have affinities and some connection, an emotional connection with the Philippines, but the children do not, in any manner, when they are American citizens, consider themselves Filipinos and, in fact, some of them are embarrassed about their origins.

Therefore, we will now have a second category, non-Filipino citizens who may be slightly superior to the Filipino citizens. How was that addressed?

Senator Magsaysay. The children of these natural-born citizens are also granted rights under this provision, Madam President. Their children, by right of succession, shall be granted the same rights of a Philippine citizen except in activities reserved by the Constitution including the exercise of a profession, in defense-related activities under Section 8(b) hereof.

Senator Roco. So that it will be possible then for an American company to just utilize all these first-generation Americans, children of former Filipino citizens, to dominate all these areas even if they are not citizens. Is this what the Sponsor is asking us to approve?

This is really becoming very liberal, I know. Why do they not just avail of the law if they want to come back for retirement if that is the sole purpose—to come back for retirement? It is so easy if they will retire to regain the Philippine citizenship by just taking an oath. Why can they not show some concern for the Philippines? Why should we extend all these exemptions from Filipinization laws to those who were former citizens, and yet they already have the benefit of 60 percent ownership to go beyond even their parents?

But to the children, why, for what reason do we think that all these will generate substantial investments to save our floundering Republic; that we are so impoverished and so tied up for funds that we will now pioneer into a new legal category of natural-born foreigners and nonnatural-born foreigners because effectively, that is what we are doing? Why?

Senator Magsaysay. Madam President, if I may ask the

Author of this provision, the Gentleman from Iloilo, to help me out. Maybe he has another point of view or perspective to buttress my support of this new provision under Senate Bill No. 1399.

The President Pro Tempore. The Gentleman from Iloilo, Senator Drilon, is recognized.

Senator Drilon. Thank you, Madam President.

To the question earlier raised as to why we are opening up activities which are exclusively reserved to Filipino citizens such as retail trade, rice and corn business, Madam President, we all know that these businesses now are controlled by Filipino citizens who are, in fact, foreigners but became Filipinos by legal fiction. I would rather have Filipinos by blood who became foreigners by legal fiction, that is, by naturalization, have a say in these businesses or even have control of these businesses, rather than a foreigner who became a Filipino by convenience in order to engage in this kind of businesses.

Madam President, as pointed out by the good Sponsor, this proposal will open opportunities for former Filipino citizens who became foreigners by necessity in order to maintain strong bonds with their native land without giving up their foreign citizenship.

To the question of the Gentleman from Bicol regarding the children. I do recall, Madam President, that it was Senator Shahani herself who pointed this out. My impression on the line of question of Senator Shahani is that we should liberalize likewise the entry into the country of the second generation Filipinos because the policy of maintaining bonds with our former Philippine nationals can further enhance our policy of tapping these talented Filipinos by blood in helping the development of our country.

As we have confessed in the course of the interpellation of Senator Shahani, we did not think of the situation brought out by the good Senator from Pangasinan. And the amendment now appearing on page 2 from lines 1 to 11 is, in fact, a substitute amendment proposed by the Senate President in order to remove all the questions raised during the interpellation.

The President Pro Tempore. By point of clarification—and I would like to thank our Colleague from Iloilo for mentioning this part of the interpellation period—the Chair still believes and feels that this bill before us is time bound. In other words, it only refers to the children of these Filipino citizens who have become Americans. In other words, this does not refer to the grandchildren. Am I right in thinking so?

Senator Roco. That is correct. That is how I understood the

President Pro Tempore.

In any event, Madam President, just following the idea of the Gentleman from Iloilo, is the Sponsor accepting this as an official position of the Committee that we shall now, by passing this law, consider naturalized citizens as having been citizens by convenience? That now, naturalized citizens shall be considered second class in the Philippines? That they are spending their time and money here because they are just motivated by convenience and expedience?

Is this now the official interpretation that we will impart by approving this bill? Then, maybe, we should reexamine the total concept of the bill, Madam President. Because, first, it is not even germane. Those thoughts and ideas are not germane to the liberalization.

But how can we impugn the naturalized citizens who have embraced the Philippines? How can we now tell them, "You do not belong to the mainstream of Philippine life"? How can we do that, Madam President, by this amendment that looks plainly like a rider? How can we pass a social integration law and then call those who seek social integration as second class citizens who are here for convenience; who are here motivated by expedience?

I think, Madam President, these are serious allegations, considering that we never even heard it in Committee, and considering that all these other laws are being modified without data, without hearing and on the basis of, I guess, an appeal to the emotional ties of former Filipinos.

But is it not enough that they can own 60 percent? Is it not enough that they will be categorized the same as others, that we are opening our investment to foreign citizens? Must we classify a first class foreign citizen? So that now we shall have first class Filipinos, second class Filipinos, because the naturalized are deemed to be citizens by convenience and expedience; first class foreigners who were former Filipinos and second class foreigners who were non-former Filipinos. Will that encourage other foreigners who were not Filipinos before to invest here when they will be the last category of investors?

Senator Drilon. Madam President, I regret that my statement was taken in that context. Let me make it clear that I am not referring to all the naturalized Filipino citizens. But certainly, it cannot be denied that there are those who became Filipino citizens for convenience.

As far as the matter of hearing is concerned, I can go on record as saying that, in fact, this bill was heard by the Committee. The Secretary of Trade and Industry, in fact, endorsed the

approval of this bill.

Senator Roco. That is not what I am referring to, Madam President. I was referring to the amendment to Republic Act No. 1180. I went through the *Journals* and there was no specific hearings on the amendments to the specific laws that will be impliedly modified by this particular provision.

Senator Drilon. I assume, Madam President, that when the Secretary of Trade and Industry endorsed the approval of this bill, he was conscious of the implied amendment on the other laws that will be affected.

Senator Roco. In fact, we cannot assume so, Madam President, for the simple reason that the Sponsor himself confesses that there are no data and no discussion on the policy merits of any of the amendments to these bills. He just agrees that they will be modified, and we cannot pass such a serious amendment.

Madam President, I will repeat: Classifying four kinds of people in investment areas in the Philippines as to who are Filipinos, who are foreigners; modifying six or seven laws without benefit of hearing those who are supposedly Filipinos by convenience, indicting all those who had become naturalized as having been here for convenience—I would like to notify all the different chambers, so that they can explain themselves if they are, in fact, motivated by convenience.

Senator Magsaysay. Madam President, I can see the point of the Gentleman from Camarines Sur. The Gentleman is open to amendments or some position that he would like to put in to limit the coverage of this specific provision, like assuming the Retail Trade Law. If he would like to exclude it, I am open to this proposal.

SUSPENSION OF THE SESSION

Senator Roco. May we have a brief suspension of the session, Madam President.

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

It was 5:17 p.m.

RESUMPTION OF THE SESSION

At 5:39 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Romulo. Madam President, during the break, we have agreed that we will, in the meantime, suspend consideration of the proposed discussion and amendment on Section 1, *Definition of Terms*, particularly the one starting with "*PROVIDED, FURTHER,...*" that is on page 2, from line 1 to line 11. We will suspend discussion on that provision.

After consultation with the Sponsor of the bill, we shall consider the other amendments other than those pertaining to that particular provision.

The President Pro Tempore. Is there any objection to the proposal of the Majority Leader?

Senator Roco. Madam President.

The President Pro Tempore. Senator Roco is recognized.

Senator Roco. Madam President, I understand that we will just go back to it. We are amenable to a review by the Chairman of the Committee.

On that basis, Madam President, may we continue with the other provisions of the bill.

The President Pro Tempore. I believe there are no objections to proceeding with the other individual amendments.

Senator Romulo. Madam President, may I ask that Senator Webb be recognized.

The President Pro Tempore. Senator Webb is recognized.

WEBB AMENDMENTS

Senator Webb. Madam President, on page 2, line 17, insert the phrase "*OR LIMITED BY AN EXISTING LAW THE CONSTITUTION AND...*" So, from line 15, it will read, "*Non-Philippine nationals may own up to one hundred percent (100%) of domestic market enterprises unless foreign ownership therein is prohibited OR LIMITED BY THE CONSTITUTION AND EXISTING LAW ON FOREIGN INVESTMENT NEGATIVE LIST UNDER SECTION 8, HEREOF.*"

Senator Magsaysay. It is accepted, Madam President.

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

Senator Roco. Madam President, I have an anterior amendment.

The President Pro Tempore. Senator Roco is recognized for his anterior amendment.

Senator Roco. Madam President, on page 3, may I ask the distinguished Sponsor what we intend to achieve by lines 24 to 32, the phrase "LIST C COVERING THE AREAS OF INVESTMENT"?

I am under the impression that there is no more List C because nobody submitted any such list. In fact, in the Proclamation made by President Ramos, Proclamation No. 182, he says: "No investment area activity is listed since no petition for inclusion was submitted to NEDA as of the filing period or deadline of August 31, 1992, pursuant to the provisions of Section 9 of Republic Act No. 7042."

I am also under the impression based on information by NEDA that it is really what they wanted to delete—the List C. So I am just wondering why we are putting it here.

Senator Magsaysay. Madam President, it is a fact that the original bill that was sent to us by the NEDA and DTI did not have the Negative List C. But in the course of the public hearings when we were listening to industry representatives—representatives from various industries including Mr. Concepcion of the Federation of Filipino Industries, they asked among those provisions that List C be included because this will serve as a flexible provision. Although there is no item now under Negative List C because of some difficulties in the requirements of Section 9 that this be still retained, the bill of the Lady Senator from Pampanga, Senator Macapagal, included List C, so that the Committee saw it fit to follow the version of the bill authored by Senator Macapagal.

Once we delete the Negative List C, Madam President, it will be gone forever. We want to keep that venue for the apparently or possibly threatened sectors of business, to have that alternative still present even how difficult it is to comply with the requirements of the NEDA. Once we delete that, we cannot bring it back. Anyhow, we still have four years, as I understand, to keep that List C.

Senator Roco. So this is an effort to still keep some protective alternative?

Senator Magsaysay. That is true, Mr. President.

Senator Roco. But would the Sponsor, Madam President, then not be disagreeing with everything he has been saying in the sponsorship that all these protective mechanisms breed inefficiency because some industries are still being protected when they have been babies for years? I mean, can we be in-between these matters?

I am informed by the NEDA that, in fact, they thought themselves that List C should be deleted and, therefore, we really achieve our liberalization.

Senator Magsaysay. Yes and no, Madam President, because, as I said earlier, it is always good to keep that provision of Negative List C just in case there is a need for it. It is like a household that, maybe, keeps a shotgun in the cellar just in case there is a need for one. Although there is possibly a maximum security in one's village, but one will never know.

That is true that, maybe, the NEDA and the DTI would like to again show a gesture of complete and strong liberalization. But the Gentleman from Camarines Sur himself was earlier saying that we should not include this provision of Senator Drilon and Senate President Neptali Gonzales because of matters of protection.

So, what is really the pleasure of the Gentleman from Camarines Sur, to protect or not to protect at some level?

Senator Roco. It is not an objection. The objection, since the Gentleman is raising again—I thought we suspended discussion on this—to that one is totally different. It is the aberration that is created by four classifications of individuals investing in the Philippines. To me, it is the imprudence of amending laws without discussion.

Those are the objections we were raising to that provision which we have suspended. In this particular case, we want to liberalize, but the Gentleman still wants to keep the possibility of lobbying with NEDA so that we can still put this in. And yet, since 1993, apparently nobody has seen fit to apply.

Senator Magsaysay. Actually, there was one industry that applied. This is the insurance industry, Madam President. However, after due deliberation, the industry finally withdrew or did not pursue its application to be under the Negative List C.

Senator Roco. So, what all this achieves, Madam President, is the fact that one can lobby with NEDA so that we can have some protective mechanism under these conditions.

Senator Magsaysay. That is true, Madam President.

Senator Roco. Maybe the Committee should, in fact, explain its philosophy on whether they want to liberalize or have protective mechanisms as in this particular case. I will not insist on deleting this, Madam President, but I can see that the only possibility of its benefit are those who may be close or who will have access to NEDA. If they feel that they need some advantage in the competitive situation, they would then get NEDA to start

all the mechanisms for promulgating this. But if the Gentleman wants greater efficiency and he wants to promote competition, then there is no more need for List C.

Senator Macapagal. Madam President.

The President Pro Tempore. Senator Macapagal is recognized.

Senator Macapagal. As Author of the measure that retained List C, I would like to take exception to the conclusion that the only ones who will benefit from this are those who can have access to NEDA. Even the distinguished Gentleman has, in previous interpellations or in previous defenses, talked about the presumption of good faith in administrative judgment. Even in the bill on liberalization of bank entry, we give to the Central Bank tremendous authority to decide on administrative matters rather than legislating them. So there is no difference to have List C.

If NEDA has the philosophy now that they do not want to have any industry that is outside of what is provided for by law, and they do not want to have any industry that will not allow more than 40 percent foreign ownership, then it is their policy statement for this administration. But there is nothing wrong with leaving that clause. Because if NEDA does not believe in a List C, it can always have a nonlist as what it has now.

Thank you, Madam President.

Senator Roco. Would the Lady Senator explain a little what this achieves, because we were not impugning NEDA by any chance.

Senator Macapagal. Madam President, it achieves administrative flexibility. It removes a straitjacket whereby we find that there is an industry that is indeed distressed as far as the domestic entrepreneurs are concerned. It removes the requirement for them to have to go through legislation. If we are going to say that one particular measure will only benefit those who are close to NEDA, we can also say that another measure can benefit only those who are close to the legislators, if they have to go to Congress for that. That is not a valid argument for saying that it only benefits people who are close to a certain group of policy-makers.

Senator Roco. The answer is neither here nor there, Madam President. But I was saying that I will not insist on deleting it, if the Sponsor feels that way. But, nonetheless, one should reconcile the intention of the Sponsor on whether they want to promote greater competition or still have some traces of protectionism in this regard.

Senator Magsaysay. Madam President, we want to do both. We not only want to encourage more investments here, but we also want to have that small window for Filipino businessmen and investors, or those who want to go into business or, let us say, in an embattled area of business. We want to have that window for Filipino businessmen wherein they can approach NEDA and present everything so that they will not be threatened by outside investors. It does not mean that they will use it, but it can mean that they have that venue.

We have to give the benefit of the doubt that the government, through NEDA, will act very objectively and forthrightly, because they are part of the Executive. If we cannot trust such departments, and we have to keep on referring to Congress on something to be changed in the law, then the law will not be flexible enough to cope with the dynamics of international economy and the global economy, Madam President.

Senator Roco. We will defer to the statements of the Sponsor, Madam President. Thank you.

Senator Webb. Madam President.

The President Pro Tempore. Senator Webb is recognized.

WEBB AMENDMENTS

Senator Webb. Thank you, Madam President.

On page 4, line 3, between the words "advanced technology" and "as determined", insert the following clause: AND THE APPLICATION OF WHICH WILL BENEFIT THE FILIPINO PEOPLE. So that the whole text from lines 3 and 4 will read as follows: "a) they involve advanced technology AND THE APPLICATION OF WHICH WILL BENEFIT THE FILIPINO PEOPLE as determined by the Department of Science and Technology;"

The rationale, if I may express, Madam President, is that there are instances wherein application of advanced technology may not benefit the Filipino people. For example, abortifacient contraceptives may be regarded as a product that needs advanced technology. But, again they are not beneficial to the Filipino people. Another one is junk food. They do use advanced technology but these junk foods are not beneficial to the Filipinos.

Senator Magsaysay. That is a good amendment, Mr. President. We accept it.

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

Senator Webb. On page 4, line 14, between the phrase "Amendments to List B may be made" and "upon the recommendation of", insert the following phrase: **ON THE BASIS OF THE FILIPINO FIRST POLICY AND.** So that it would now read: "Amendments to List B may be made **ON THE BASIS OF THE FILIPINO FIRST POLICY AND** upon the recommendation of xxx"

May I again express the reason why I have injected this particular phrase into the bill.

It is admitted that by inserting the phrase **ON THE BASIS OF THE FILIPINO FIRST POLICY**, that law has provided a sufficient standard within which the Executive branch can work on. The parameter, Madam President, within which amendments to List B may be made is the "Filipino First Policy". If we will look at the Constitution, it says:

The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos.

Again, by inserting the phrase **ON THE BASIS OF THE FILIPINO FIRST POLICY**, the bill will be able to comply with such policy as required by the Constitution. Moreover, this provision is in accord with the last sentence of the first paragraph of Article XII, Section 10, under National Economy and Patrimony, which reads:

Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.

Senator Magsaysay. It is accepted, Madam President.

The President Pro Tempore. May it not be more prudent to wait until we have the formula for Section 1 concerning the definition of "Filipino First Policy." The Chair is just saying this because this is such a matter of contention. We may have to interpret what the "Filipino First Policy" really is.

Senator Webb. May I know, Madam President, what is the recommendation on this?

The President Pro Tempore. Could we have a reaction from the Floor?

Senator Magsaysay. Madam President, since this is merely an emphasis on the Filipino, I do not think that it has much bearing on the amendment that we have temporarily set aside earlier and which will be considered at a later time.

The President Pro Tempore. The Sponsor has accepted the amendment of Senator Webb. Are there any objections to this proposal?

Senator Macapagal. Madam President.

The President Pro Tempore. Senator Macapagal is recognized.

Senator Macapagal. Madam President, could we hear the proposed amendment again?

Senator Webb. Again, Madam President, on page 4, line 14, between the phrase "Amendments to List B may be made" and "upon the recommendation of", insert the following phrase: **ON THE BASIS OF THE FILIPINO FIRST POLICY.** So that the whole text will now read: "Amendments to List B may be made **ON THE BASIS OF THE FILIPINO FIRST POLICY** and upon the recommendation of".

Senator Mercado. Madam President.

The President Pro Tempore. Senator Mercado is recognized.

Senator Mercado. Madam President, is the Sponsor of the amendment also going to propose a definition of the "Filipino First Policy"? Could we hear the same before acting on the amendment? Because what I remember of the "Filipino First Policy"—and I am not sure whether this is part of our laws—it was a policy enunciated during the time of President Carlos P. Garcia. It was the linchpin of his administration. It covered a gamut of government initiatives as regards our economic activities.

Now, we want to have the definition of "Filipino First Policy," because this has to be seen in the context of the globalization of the economy. We have to look and reexamine the Filipino First Policy in the light of the World Trade Organization, the GATT-Uruguay Round creation, and all other economic directions that we are undertaking.

We have no objection to protecting Filipino interests, but we must be clear what we mean by Filipino First Policy, because it might be going into an opposite direction of the Foreign Investments Act. That is simply what I want to find out, Madam President.

The President Pro Tempore. The Chair thinks Senator Mercado is reminding us that the Filipino First Policy was enunciated by President Garcia as a policy of economic nationalism. It was an attempt to reaffirm the role of Filipino nationals and citizens as against the foreigners—in this case, it was really

the Chinese—and there was a very heated debate at that time.

So may we hear the comments of Senator Magsaysay.

Senator Magsaysay. Madam President, the Sponsor of this amendment must have been encouraged by Article II, Section 19, of the Constitution which reads:

The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos.

That is a fact that the late President Garcia enunciated during those days when there were quite a lot of Chinese coming in from the Mainland China, when the Communists took over Mainland China.

My feeling is that if the Filipino First Policy may be rephrased by the Gentleman from South Metro Manila so that it will not invoke that period of so-called “nationalism” which runs contrary to what we are trying to do now, that is, globalizing our economy, I would not mind if this will be reconsidered by the Sponsor.

Senator Webb. Madam President, the Sponsor is right because I underlined the article in the Constitution, which is Article II, Section 19, using the national economy effectively, particularly if it is controlled by Filipinos.

So I went back and looked at the situation before where we always stressed the Filipino-First Policy. This gave me the initiative to come up with this amendment to remind us that the Filipino-First Policy, first and foremost, can be used in this particular bill.

Although we grant and liberalize foreign investments, we should never forget the fact that the Filipino still has to be first and foremost although we do liberalize.

But if the Gentleman is asking me to look for another word, I am at a loss right now and will not be able to do that, Madam President.

SUSPENSION OF THE SESSION

May I ask for a one-minute suspension of the session, Madam President.

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

It was 6:07 p.m.

RESUMPTION OF THE SESSION

At 6:08 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Webb. Madam President, when I made that amendment, I was looking at List B, and after consultation with the Sponsor, I will not pursue my amendment, provided that amendments to List B, starting from line 14 to line 18 be deleted, if the Gentleman would accept.

The President Pro Tempore. The Chair would like to request a repetition of the proposed amendment.

Senator Webb. Instead of inserting my previous amendment, Madam President, I was wondering if the Sponsor would agree, for certain reasons which I have stated. Why not delete the whole section starting from line 14 to line 18, primarily because List B contains certain businesses, which, when I interpellated the Gentleman from Zambales, I made mention of the fact that we are now allowing Filipinos to get involved even in gambling activities, although these will have to be sanctioned by either Pagcor or Congress?

With this, I would suggest, if it is possible, to delete lines 14 to 18.

Senator Magsaysay. Madam President, the principal Sponsor of the bill, Senator Macapagal, has no objection to this.

Senator Mercado. Madam President.

The President Pro Tempore. Senator Mercado is recognized.

Senator Mercado. I would like to ask, Madam President, the Sponsor of this amendment about the deletion of lines 14 to 18 on page 4. What would be the effect of such an amendment on the provisions contained on page 3 under paragraph 1? If we start with line 1, it says:

List B COVERING the areas of the activities and enterprises regulated pursuant to law, MORE SPECIFICALLY:

- 1) defense-related activities requiring prior clearance and authorization from the Department of National Defense (DND) to engage in such activity, such as the manufacture, repair, storage and/or distribution of firearms, ammunition, lethal weapons, military ordnance, explosives, pyrotechnics and similar

materials; unless such manufacturing or repair activity is specifically authorized with a substantial export component, to a non-Philippine national by the Secretary of National Defense.

What would be the effect of lines 14 to 18 on this particular provision?

Senator Magsaysay. Madam President, once this paragraph from lines 14 to 18 is deleted, then that removes the flexibility of amending List B. There will be no more amendment. So List B will just stay as it is.

Senator Mercado. Precisely, Madam President, the justification of the amendment earlier was on the matter of public health and morals in the manufacture of dangerous drugs, gambling, et cetera, which is paragraph 2. But by amending lines 14 to 18 by deletion, we will also be affecting flexibility as contained in paragraph 1.

For that reason, Madam President, I am objecting to the amendment.

SUSPENSION OF THE SESSION

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

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

It was 6:13 p.m.

RESUMPTION OF THE SESSION

At 6:16 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Magsaysay. Madam President, with regard to the proposed amendment of Senator Webb on the basis of the concerns of Senator Mercado, I move that we postpone the decision on this particular amendment.

The President Pro Tempore. Is there any objection to the proposal of the Sponsor? [*Silence*] There being none, consideration of this amendment is postponed.

Senator Romulo. Madam President, may I ask that the distinguished Minority Leader be recognized for his amendment.

The President Pro Tempore. The Minority Leader is recognized.

ANGARA AMENDMENT

Senator Angara. Thank you, Madam President.

On page 5, line 6 of the bill, insert the following new section:

SECTION 4. THE FOREIGN INVESTMENT ACT IS FURTHER AMENDED BY INSERTING A NEW SECTION DESIGNATED AS SECTION 10 TO READ AS FOLLOWS:

SEC. 10. *OTHER RIGHTS OF NATURAL-BORN CITIZENS.* PURSUANT TO THE PROVISIONS OF SECTIONS 2 AND 3 OF BATAS PAMBANSA BLG. 185 AND ARTICLE XII, SECTION 8 OF THE CONSTITUTION, ANY NATURAL-BORN CITIZEN WHO HAS LOST HIS PHILIPPINE CITIZENSHIP AND WHO HAS THE LEGAL CAPACITY TO ENTER INTO A CONTRACT UNDER PHILIPPINE LAWS MAY BE A TRANSFEREE OF A PRIVATE LAND UP TO A MAXIMUM AREA OF ONE THOUSAND (1,000) SQUARE METERS, IN THE CASE OF URBAN LAND OR ONE (1) HECTARE IN THE CASE OF RURAL LAND, TO BE USED BY HIM AS HIS RESIDENCE. IN THE CASE OF MARRIED COUPLES, ONE OF THEM MAY AVAIL OF THE PRIVILEGE HEREIN GRANTED: *PROVIDED*, THAT IF BOTH SHALL AVAIL OF THE SAME, THE TOTAL AREA ACQUIRED SHALL NOT EXCEED THE MAXIMUM HEREIN FIXED.

IN THE CASE THE TRANSFEREE ALREADY OWNS URBAN OR RURAL LANDS FOR RESIDENTIAL PURPOSES, HE SHALL STILL BE ENTITLED TO BE A TRANSFEREE OF ADDITIONAL URBAN OR RURAL LAND FOR RESIDENTIAL PURPOSES WHICH, WHEN ADDED TO THOSE ALREADY OWNED BY HIM, SHALL NOT EXCEED THE MAXIMUM AREAS HEREIN AUTHORIZED.

A TRANSFEREE UNDER THIS ACT MAY ACQUIRE NOT MORE THAN TWO (2) LOTS WHICH SHOULD BE SITUATED IN DIFFERENT MUNICIPALITIES OR CITIES ANYWHERE IN THE PHILIPPINES: *PROVIDED*, THAT THE TOTAL LAND AREA THEREOF SHALL NOT EXCEED ONE THOUSAND (1,000) SQUARE METERS IN THE CASE OF URBAN LANDS OR ONE (1) HECTARE IN THE CASE OF RURAL LAND FOR USE BY HIM AS HIS RESIDENCE. A TRANSFEREE WHO HAS ALREADY ACQUIRED URBAN LAND SHALL BE DISQUALIFIED FROM ACQUIRING

RURAL LANDS AND VICE VERSA.

Madam President, just to supply the rationale for this amendment. This right is granted under Batas Pambansa Blg. 185, but we thought that the emphasis, the restatement of this right under the Foreign Investments Law which intends to grant natural-born citizens additional rights of investment, would also highlight this preferential right we give to expatriate Filipinos.

Senator Roco. Madam President.

The President Pro Tempore. Senator Roco is recognized.

Senator Roco. Just a point of information, if the Gentleman would permit. I understand, and maybe the Minority Leader would so kindly confirm that this really is a reiteration of the existing law.

Senator Angara. Yes, Batas Pambansa Blg. 185.

Senator Roco. Yes. And then, what is the effect of this on those who already have inherited land?

Senator Angara. None at all. It will not affect ex-Filipinos who, by virtue of inheritance, already acquired land in the Philippines.

Senator Roco. So that this is in addition to those who may inherit by virtue of the Constitution?

Senator Angara. Yes, in addition.

Senator Roco. Thank you, Madam President.

Senator Magsaysay. I have no objection to this amendment of the Senator from Quezon, Madam President.

The President Pro Tempore. The Sponsor accepted the amendment of the Minority Leader. Is there any objection to this amendment? [Silence] There being none, the same is approved.

Senator Angara. Thank you, Madam President.

Senator Romulo. Madam President, the other amendments will be taken up tomorrow, after certain issues have been clarified and submitted to us.

SUSPENSION OF CONSIDERATION OF S. NO. 1399

With the permission of the Chairman and Sponsor of the bill, Madam President, I move that we suspend consideration of Senate Bill No. 1399 until tomorrow.

The President Pro Tempore. Is there any objection to the postponement of the consideration of Senate Bill No. 1399 until tomorrow? [Silence] There being none, the motion is approved.

Senator Romulo. Madam President, we have two speakers for the Privilege Hour. May I ask that the distinguished Senator from Quezon City and Iloilo, Senator Santiago, be recognized.

The President Pro Tempore. Senator Santiago is recognized.

PRIVILEGE SPEECH OF SENATOR SANTIAGO
 Imploring the Aid of a Male and Female God
 (Feminist Discourse Under the Constitution)

Senator Santiago. Thank you.

Madam President, the title of this privilege speech is "Imploring the Aid of a Male and Female God" and the sub-title is "Feminist Discourse Under the Constitution."

Ladies and Gentleman of the Senate: By consensus of the international community, every year, March 8 is set aside as International Women's Day. In anticipation of that date, I invite our Colleagues to examine feminist discourse under the Constitution, within the basic framework of the theology that animates our fundamental law.

The Preamble to our Constitution implores "the aid of Almighty God." It thus commendably employs gender-free language. Furthermore, Article II, Section 14 on State Policies provides: "The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men."

Unfortunately, subsequent provisions in the Constitution definitely employ androcentric language—meaning the masculine pronoun—thus unwittingly reinforcing the chauvinist worldview that in legislation, the norm is the masculine. For example, the Bill of Rights, Article III Section 12, paragraph (1) provides: "Any person under investigation for the commission of an offense shall have the right to be informed of *his* right to remain silent and to have competent and independent counsel preferably of *his* own choice. If the person cannot afford the services of counsel, *he* must be provided with one."

The lamentable terminology of the Constitution infects the terminology of Congress, including this Senate. Hence, I am compelled to make the proposition that, following the mindset adopted in the constitutional preamble, as legislators we should operate contextually under an Almighty God Who is both male and female, and accordingly, henceforth we should draft