REPUBLIC OF THE PHILIPPINES

Senate

Pasay City

Journal

SESSION NO. 62

Tuesday, February 14, 2017

SEVENTEENTH CONGRESS

FIRST REGULAR SESSION

SESSION NO. 62
Tuesday, February 14, 2017

CALL TO ORDER

At 3:16 p.m., the Senate President Pro Tempore, Hon. Franklin M. Drilon, called the session to order.

PRAYER

The Body observed a minute of silent prayer.

ROLL CALL

Upon direction of the Senate President Pro Tempore, the Secretary of the Senate, Atty. Lutgardo B. Barbo, called the roll, to which the following senators responded:

Aquino, P. B. IV B.	Hontiveros, R.
Binay, M. L. N. S.	Lacson, P. M.
De Lima, L. M.	Legarda, L.
Drilon, F. M.	Recto, R. G.
Ejercito, J. V. G.	Sotto III, V. C.
Gatchalian, W.	Villanueva, J.
Gordon, R. J.	Villar, C. A.
Honasan, G. B.	

With 15 senators present, the Chair declared the presence of a quorum.

Senators Angara, Escudero, Pacquiao, Pangilinan, Trillanes and Zubiri arrived after the roll call.

Senator Cayetano was on official business as indicated in the February 14, 2017 letter of the Senator's chief of staff.

Senator Poe was on official mission, as "she will be attending a meeting with concerned citizens and transportation stakeholders with regard to issues on the MRT-LRT common station project and Traffic and Congestion Crisis Act" as indicated in the February 14, 2017 letter of the Senator's chief of staff.

Senate President Pimentel was on official mission abroad.

APPROVAL OF THE JOURNAL

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the

Journal of Session No. 61 (February 13, 2017) and considered it approved.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following Senate bills and resolutions which the Chair referred to the committees hereunder indicated:

BILLS ON FIRST READING

Senate Bill No. 1324, entitled

AN ACT INSTITUTIONALIZING THE BALIK SCIENTIST PROGRAM, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Grace Poe

To the Committees on Science and Technology; Ways and Means; and Finance

Senate Bill No. 1325, entitled

AN ACT CREATING THE REGIONAL INVESTMENT AND INFRASTRUCTURE CORPORATION OF CENTRAL LUZON TO FACILITATE THE CREATION OF THE CENTRAL LUZON INVESTMENT CORRIDOR, AND FOR OTHER PURPOSES

Introduced by Senator Richard J. Gordon

To the Committees on Government Corporations and Public Enterprises; Economic Affairs; Ways and Means; and Finance

Senate Bill No. 1326, entitled

AN ACT DEFINING GENDER-BASED STREET AND PUBLIC SPACES HARASSMENT, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Risa Hontiveros

To the Committees on Justice and Human Rights; and Women, Children, Family Relations and Gender Equality

RESOLUTIONS

Proposed Senate Resolution No. 289, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT TERMINATION OF, OR WITHDRAWAL FROM, TREATIES AND INTERNATIONAL AGREEMENTS CONCURRED IN BY THE SENATE SHALL BE VALID AND EFFECTIVE ONLY UPON CONCURRENCE BY THE SENATE

Introduced by Senators Drilon, Sonny Angara, Paolo Benigno "Bam" Aquino IV, Leila M. de Lima, Joseph Victor Ejercito, Honasan II, Risa Hontiveros, Lacson, Legarda, Pangilinan, Recto, Sotto III, Joel Villanueva and Zubiri

To the Committee on Rules

Proposed Senate Resolution No. 290, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE EFFECTIVENESS OF MICRO-INSURANCE AS A STRATEGY IN INCREASING SOCIAL SECURITY COVERAGE AND PROTECTION AMONG THE UNEMPLOYED, UNDEREMPLOYED, INFORMALLY EMPLOYED, AND OTHERWISE LOW-INCOME FILIPINOS

Introduced by Senator Grace Poe

To the Committee on Social Justice, Welfare and Rural Development

Proposed Senate Resolution No. 291, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE LENGTHY AND COSTLY PERMITTING PROCESS IN SECURING NET METERS FOR RESIDENTIAL HOUSES

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committee on Local Government

MANIFESTATION OF SENATOR GORDON

Senator Gordon informed the Body that Mr. Wally Sombero, the Blue Ribbon Committee's witness, arrived that morning and that in a letter, he informed the Committee that his life was being threatened.

Senator Gordon stated that he has informed the members of the Committee of his plan for the Senate Office of the Sergeant-at-Arms (OSAA) personnel to meet Mr. Sombero at the airport and escort him to his house because if he goes to the NBI, people might think that Justice Secretary Aguirre or the NBI is protecting him, or if he goes directly to the police, there is allegedly a warrant of arrest issued against him. He stated that he thought it was best to inform the Senate that Mr. Sombero is under the custody of the OSAA, and that he also had told Mr. Sombero that the OSAA personnel can stay in his home if he needs them, or if he does not, they can come back to the Senate. However, he said that the witness must be fetched at his home on his way to the Senate on Thursday for the hearing to make sure nothing happens to him. He said that he does not want the Senate to be remiss in its duties to protect the witness.

COMMITTEE REPORT NO. 13 ON SENATE BILL NO. 1256
(*Continuation*)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1256 (Committee Report No. 13), entitled

AN ACT TO FURTHER AMEND REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT OF 2001, AS AMENDED, AND FOR OTHER PURPOSES.

Senator Sotto stated that the parliamentary status was the period of interpellations.

Thereupon, the Chair recognized Senator Escudero, sponsor of the measure, and Senator De Lima for her interpellation.

INTERPELLATION OF SENATOR DE LIMA

At the outset, Senator De Lima asked Senator Escudero if he can confirm the accuracy of news reports that the Financial Action Task Force (FATF) was threatening to put the Philippines in the gray list should it fail to enact Senate Bill No. 1256. In reply, Senator Escudero disclosed that a few months ago, he and Senator Drilon had a meeting with the Asia Pacific Group (APG) on Money Laundering, an associate of the FATF, of which the Philippines is part, and the APG recommended that the Philippines review and pass legislations as regards money laundering and that it would conduct another review of the Philippine policy in June, and if Congress does not pass the desired legislation, the country would be placed in the gray list of the FATF.

Asked by Senator De Lima if he considered the APG recommendation as a threat, Senator Escudero said that he thought of it as a warning and not a threat, that should the Philippines fail to enact any legislation as regards money laundering, it would be placed in the gray list.

Asked to explain the differences between gray list, dark gray list and blacklist, Senator Escudero explained that the dark gray list means that a country is not making any sufficient progress; the gray list means that the country is attempting to make significant progress but it is not that compliant; and the blacklist would mean that the country is totally noncompliant and has no intentions of complying, examples of which are of Iran and North Korea.

Asked what the government's current policy is with respect to its membership in FATF, and whether the country really wanted to become a member thereof, Senator Escudero replied that being a member of the FATF has not been under consideration by the present and past administrations because whether or not the country is a member, it is a question of compliance. He stated that the world has adopted standards with respect to financial systems so that if the country is not compliant, member-countries would impose sanctions by virtue of their own commitments to the FATF or their respective aggrupations. He said that he, together with Senator Drilon and the late Senator Joker Arroyo, actually questioned this issue of compliance as they argued that if the country is not part of FATF, then there is no need to comply because FATF has no jurisdiction to impose sanctions on the country, and the reply given was that being one of the founding members of the APG on Money Laundering, it would reflect badly if suddenly the Philippines would remove itself from the group, and as a consequence, the other member-countries

of FATF, including countries in the Middle East and in the Americas with which the Philippines does a lot of trade and where there are a lot of OFWs, would nevertheless impose sanctions on the Philippines.

Asked on the deadline for the passing of the legislation, Senator Escudero said that the Philippines was given until June 2017 or else it would be placed in the gray list.

Senator De Lima noted that one of FATF's criticisms of the previous AMLA amendments was the absence of casinos in the list of covered institutions and she recalled that Pagcor then opposed the inclusion of casinos for fear that it may discourage the entry of casino investments in the country. Asked whether Pagcor was still opposing the proposed inclusion of casinos as one of the covered institutions, Senator Escudero replied that based on the minutes of the Committee on Banks hearing at the House of Representatives on January 30, 2017, Pagcor, using the same argument, went on record that it was still against the inclusion of casinos. He disagreed with the position taken by Pagcor because even if it is one of the oldest casinos in the region, it has already been overtaken by both Macau and Singapore, the latter being the last one to enter the casino bandwagon. He said that both Macau and Singapore are compliant with FATF recommendations and yet the revenues of both countries have been rising exponentially in the past several years.

Senator Escudero revealed that on its first year of operation, Singapore, even as it complied with the Client Due Diligence Rule and all the recommendations of the FATF, its casino was able to generate so much revenues which Pagcor never reached in the past 30 years of its existence.

Asked whether the inclusion of casinos was an offshoot of the US$81 million scandal, Senator Escudero answered in the affirmative. However, he clarified that even before the scandal, FATF has already been pointing out to its counterparts in the Philippines the need to include casino.

Asked whether the Committee found out the circumstances surrounding the scandal, Senator Escudero cited two flaws that the inquiry discovered, namely: (1) the fact that casinos are not covered and are not duty-bound to report, and (2) that there were also basic flaws with respect to the banks through which the money came through. He said that cases have been filed against certain bank officials involved in the heist as well as certain private individuals, and that the latest development was that Bangko Sentral does not want to be used as a collection agent of the Bangladesh government because Bangladesh themselves are not lifting their finger insofar as the filing of cases against those involved are concerned. He said that the level of cooperation has diminished, and it will remain that way unless Bangladesh shows more interest than the Philippines as regards the case. He agreed that the resolution of the scandal would depend on the development of the cases filed against those involved.

Senator De Lima noted that there are additional items under Covered Persons of Section 1 which amended Section 3(a) of the current law, among which is the money service business or money transfer companies. She asked on the difference between money service business or money transfer companies and the current covered person which is remittance and transfer companies. She also asked why there was a need for a category for money service business or money transfer companies that is separate from remittance and transfer companies.

Senator Escudero stated that the new items proposed to be included in the category "Covered Persons" were merely being supervised by the BSP for AMLC compliance but were not covered under the law; hence, there is a need to specifically cover them because the Committee is presently undertaking amendments to BSP Charter which would specifically clarify their inclusion which, in turn, would undoubtedly clarify and ensure their coverage under the AMLC and not simply through the BSP.

To the inclusion in the list of predicate offenses of "acts or omissions that are instrumental in the commission of predicate offenses and resulting in money laundering of the illegal proceeds thereof," Senator De Lima noted that the term "predicate offenses" used to be "unlawful activity," and she agreed to the change because acts or omissions that are instrumental to the commission of predicate offenses may not be criminal acts *per se*.

For a simpler and clearer implementation of the law, Senator Escudero agreed to delete subparagraph (44) of Section 4 to remove any and all doubts with respect to what predicate offenses are. Senator De Lima thanked Senator Escudero for considering and finding merit to her observation.

On another point, Senator De Lima asked why falsification of documents under Articles 171 and 172 of the Revised Penal Code as well as violations of the Access Devices Regulation Act of 1998 and Data Privacy Act of 2012 specifically enumerated as subparagraphs (36), (37) and (38) was included as predicate offenses.

SUSPENSION OF SESSION

Upon motion of Senator Escudero, the session was suspended.

It was 3:40 p.m.

RESUMPTION OF SESSION

At 3:41 p.m., the session was resumed.

Upon resumption, Senator Escudero disclosed that during the meeting with APG representatives and according to the resource persons, it was settled that only those acts involving a violation of pertinent laws, or predicate offenses which generate proceeds in the form of money or cash substitutes, would be covered by AMLC. He stated that when proceeds — for instance, cash — are generated from violation of the Strategic Trade Management Act or the Cybercrime Prevention Act of 2012, such violation would also be considered as a predicate offense; otherwise, it is not covered by AMLC.

As regards "Covered Transactions" under Section 2, Senator De Lima admitted that it was her first time to be introduced to a dichotomy of covered transactions wherein covered cash equivalent transactions or non-cash transactions would apply only to certain or select covered institutions. Senator Escudero replied that originally, the AMLC law covered cash or other equivalent monetary instrument amounting to P500,000; however, during his meeting with the APG representatives, they agreed to cover cash only, because it is irrelevant to include monetary instruments as they would already be covered by the banking sector.

For instance, in the real estate business where most houses, even medium-cost housing, no longer cost below P500,000 anymore and the covered persons find it inconvenient to submit the requirements, he disclosed that during discussions, it was made clear that when the real estate property is paid in check, the sale would no longer be deemed as a covered transaction that must be reported by the real estate broker, the objective of which is for people to use monetary instrument instead of cash in order to establish a paper trail and to discourage payment in cash.

Senator Escudero said that since payment in check and wire transfer are not considered as cash transactions, they agreed to include banking institutions as covered persons, and since banks are generally supervised by the BSP, they can easily comply with the requirements.

Asked on the substantive reason for exempting real estate developers, brokers, sales agents, and money service business or money transfer companies from reportorial requirements insofar as the equivalent monetary instruments or non-cash transaction are concerned, Senator Escudero clarified that transactions in cash or other equivalent monetary instrument exceeding P500,000 would simply apply to BSP-covered persons, namely: banks, non-banking institutions, quasi-banking institutions, trust entities, foreign exchange, money changers, remittance and money transfer companies, and casino and junket operators.

Further, he explained that since wire transfers are considered non-cash transactions, and if casinos and junket operators are not included, they would easily fall through the cracks inasmuch as casinos usually do not know who their players are since they only deal with junket operators who deal mostly with non-cash instruments. He said that financial transactions of casinos and junket operators are included as covered transactions to remove the dichotomy and distinction between non-cash and cash transactions. He reiterated that the objective was to push people towards using monetary instruments in lieu of cash so that they could easily be traced via paper trail and the source could easily be found.

Thereupon, Senate President Pro Tempore Drilon stated that financial institutions supervised by the *Bangko Sentral* which deal with financial instruments in the course of their business are deemed covered institutions and their transactions, both cash and monetary instruments are considered covered transactions, in the same manner that transactions of banks and financial institutions supervised by the Central Bank, and casinos involving actual cash of P500,000 and above are considered covered transactions. Senator Escudero added that the new system would make the banks and financial institutions compliant with the standards imposed by the FATF.

To Senator De Lima's statement that the dichotomy of covered transactions is a desirable innovation, Senator Escudero said that it was meant to ease the compliance requirements of certain sectors by simply requiring them to pay in check, or to use a monetary instrument since those institutions would be covered anyway.

Adverting to the standard required prior to AMLC action—whether in an application for a freeze order, formal inquiry, bank inquiry, etc., Senator De Lima noted that the proposed bill has replaced the standard of evidence of probable cause with "reasonable ground to suspect."

Asked why a new standard – reasonable ground to suspect – was being proposed, Senator Escudero explained that the issuance of a freeze order is still based on probable cause which, in ordinary cases, would be sufficient to file a case against the person. He said that the determination, in relation to the requirement of probable cause for the grant of a freeze order, is at the level of the Court of Appeals. He stated that it is the applicant – either the AMLC itself or the solicitor general representing the Council – that should prove probable cause. This, he said, is the function of the regular prosecutors of the DOJ who can act even without probable cause.

Asked why "probable cause" was changed to "reasonable ground to suspect" in the definition of suspicious transactions and in the application for formal bank inquiry even though it is still the same petition, Senator Escudero explained that the requirement was eased because of AMLC's past experience of having difficulty in meeting that particular threshold of evidence even at the investigative stage. He pointed out that the measure was crafted precisely to ease and lessen the standard of evidence so that the AMLC would only need an easier reason to look into a particular account or transaction in order to collect evidence to establish probable cause. The lighter threshold of evidence, he said, was the position taken by the AMLC in this regard.

While concurring with the need to lighten the threshold of evidence to prove probable cause, Senator De Lima, however, noted that a problem would arise should the AMLC apply for a freeze order. She pointed out that when one applies for a freeze order, he would also have to apply for an inquiry into the back accounts because the freeze order is an interim provisional relief for the main petition for a bank inquiry. Thus, she asked why a higher threshold of evidence is needed for the application of a freeze order compared to the main thrust of the petition which is an inquiry into the bank account. Senator Escudero pointed out that such inquiries might not always end with a freeze order but only with a simple inquiry after finding out that there is no violation of the Anti-Money Laundering law.

Asked which comes first, whether the bank inquiry or the freeze order, Senator Escudero said that the inquiry would come first because the AMLC cannot poinpoint the bank accounts which it would want frozen unless it is able to identify what these are particularly since these accounts should be specified prior to the application for a freeze order.

On whether a preliminary confidential investigation is undertaken prior to the application of such an order, Senator Escudero clarified that the measure seeks to use a lower standard of evidence to determine whether the AMLC can look into an account which is covered by the Bank Secrecy Law. This, he said, is imperative for the AMLC to determine whether there is basis for the application of the freeze order.

Asked whether the process would begin with an internal confidential investigation, which does not require any standard before the AMLC would have reasonable ground to suspect that the threshold has been breached, thus necessitating as for inquiry into the bank accounts, to determine probable cause for a freeze order, Senator Escudero explained that the AMLC, under the current law, cannot inquire into bank accounts without a court order unless the crime falls under terrorism financing, kidnap-for-ransom, drug trafficking and acts of terrorism.

At this juncture, Senate President Pro Tempore Drilon asked Senator Escudero for his position on whether bank inquiries are in the nature of a search warrant. Senator Escudero replied that they are similar or akin to a search warrant.

To the proposition that the standard of probable cause should be imposed, Senator Escudero replied that such is precisely where the current law stands at present and the proposal is to lighten the level of evidence.

Considering that the inquiry is in the nature of a search warrant, Senate President Pro Tempore Drilon noted that under the Constitution, the standard of a search warrant which is probable cause must likewise be the standard insofar as conducting bank inquiries is concerned. However, Senator Escudero pointed out that the constitutional provision provides for both search and seizure; in this case, the AMLC's position is that the level of evidence being imposed is simply for the purpose of undertaking a "search" but not to seize or freeze the account involved in order to establish probable cause before undertaking further action.

At this juncture, Senator De Lima noted that the authority to inquire comes before the application for a freeze order since this presumes that a lesser threshold of evidence is required to conduct an inquiry. Since the results of the inquiry would determine the propriety of a freeze order, she asked whether it would be possible to reverse the procedure considering that the present law puts the provision on freeze order ahead of the provision on the authority to inquire into bank deposits. Senator Escudero said that he would make the corresponding amendment at the proper time.

Asked why "reasonable suspicion" or "reasonable ground to suspect," which is a lower standard, is the prescribed basis rather than "reasonable belief," Senator Escudero expressed willingness to amend the provision at the proper time.

Since a freeze order, which is effective for and cannot exceed six months, can be issued within 24 hours, Senator De Lima suggested that the enumeration of unlawful activities listed under Section 8 ought to be considered as predicate offenses. Senator Escudero replied in the affirmative.

Asked for the rationale behind the shortened freeze order of 30 days rather than the maximum period of six months for the predicate offenses enumerated in the bill, Senator Escudero explained that the 30-day freeze order refers to an administrative freeze order issued by the AMLC, compared to the court-issued freeze order which has a lifespan of six months. Explaining the rationale for the 30-day administration freeze order, he noted how easy it was for a suspected money launderer to pull out his stolen money so that by the time the AMLC investigates the account of a suspected money launderer and issues a freeze order, the stolen money is already withdrawn. This, he said, is the situation that the bill seeks to address by allowing the AMLC to issue an administrative freeze order on its own and not only through the courts.

To the observation that Section 8 only contemplates the filing of a verified *ex-parte* petition with the Court of Appeals and not with the AMLC, Senator Escudero pointed out that line 32 of page 12 up to lines 1 to 3 of page 13 states "The AMLC may issue *ex-parte* freeze order which shall not exceed 30 days.". He explained that the bill seeks to "aim high and shoot low" since there is often a situation where the government is criticized by the people for not doing enough to stop money laundering when, in fact, it is helpless given the current laws that prevent it from readily freezing an account and as such allow much leeway for these criminals to withdraw their money from their banks which are unable to stop them from doing so.

On whether the accounts of the individuals that have committed only the predicate offenses enumerated in the measure are those that could be covered by the maximum 30-day administrative freeze order of the AMLC, Senator Escudero replied that he was open to adding more offenses to the list.

Asked for the reason behind such a select list when there is a need for the AMLC to immediately act before the suspected parties close their accounts, Senator Escudero said that, at the proper time, the Committee would be amenable to including all offenses, not only grave and heinous offenses covered by the proposed measure on the death penalty such as kidnap for ransom, dangerous drugs, anti-graft, plunder, swindling, hijacking, arson and murder, terrorism, financing of terrorism, bribery, malversation and human trafficking.

SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

It was 4:14 p.m.

RESUMPTION OF SESSION

At 4:15 p.m., the session was resumed.

Upon resumption, Senate President Pro Tempore Drilon asked if in the proposed measure the AMLC would be given the power to freeze accounts

ex parte for 30 days, Senator Escudero answered in the affirmative. But Senate President Pro Tempore Drilon cautioned that freezing of the account is an interference on the property right of the depositor. He said that it is a deprivation of one's property which only the courts, rather than an administrative agency, should decide. He recalled that the provision on administrative freeze was in the previous law but was removed in the last round of amendments.

Asked if the provision is a requirement of the FATF, Senator Escudero answered in the negative. He explained that it was the dream sequence of the AMLC so that they would be given more powers to perform their duty.

Senate President Pro Tempore Drilon stated that granting an administrative body the power to *ex-parte* freeze an account of a depositor would be repugnant of the Constitution because the depositor would be deprived of his property arbitrarily without any opportunity to complain. He expressed serious reservations against the procedure and stated that he would object to a proposition that an administrative body be given the right to freeze the account of an individual for 30 days.

But Senator Escudero pointed out that the same provision could be found in the law on terrorism financing. He said that the AMLC is currently empowered to issue an administrative freeze order without limit for terrorism, the reason why they were careful to exclude all of the predicate offenses.

At this point, Senator Lacson interjected to ask if the proposed measure provides the basis for an administrative freeze. Senator Escudero replied that the basis would be probable cause, to be determined by the AMLC as mandated by the Terrorism Financing Act.

Senator Lacson pointed out that probable cause would entail due process. He then asked how an *ex-parte* administrative freeze order could be implemented without due process.

SUSPENSION OF SESSION

Upon motion of Senator Escudero, the session was suspended.

It was 4:20 p.m.

RESUMPTION OF SESSION

At 4:23 p.m., the session was resumed.

Upon resumption, Senator Escudero stated that the point of Senator Lacson was well-taken, and the provision would be reviewed for further amendment to provide a standard for the issuance of any proposed *ex parte* freeze order.

Senate President Pro Tempore Drilon pointed out that under the Constitution, a freeze or seizure order could be issued only upon the issuance of a seizure warrant based on a probable cause to be determined personally by the judge. Senator Escudero explained that it is not a seizure order but simply a provisional remedy before the courts could actually intervene and issue an actual forfeiture order. Senate President Pro Tempore Drilon maintained that when an account would be frozen for 30 days, it is already a deprivation of one's property, hence a seizure order should be issued only after a judge has personally examined the application. Senator Escudero agreed and cited Article III, Section 2 of the Constitution, to wit: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized." He assured the Body that the Committee would study the matter further, even as he pointed out that the AMLC has the power in the old law which was removed in a subsequent amendment.

Senator De Lima asked if there were actual cases in the past when it was too late before the court could issue a freeze order. Senator Escudero mentioned the Aman Futures pyramid scams. In this case, he said that AMLC still saw the money in the account but by the time it could do something about it, the money was already gone. Senator De Lima requested that a list of such cases be submitted to the Body by AMLC.

Senator De Lima summed up the points raised regarding the administrative freeze order, that is, if the majority of the Senate see the necessity to provide for the administrative freeze order they must

see to it that standards and conditions are in place to address the constitutional questions raised by Senate President Pro Tempore Drilon.

At this point, Senator Gordon interjected to caution that AMLC could also be reckless. He adverted to page 13, lines 16 to 18 which states: "The members of the AMLC and its secretariat shall be immune from any civil, criminal, or administrative liability in the exercise of the foregoing functions." Bereft of all the guidelines discussed, he warned that the AMLC might run rampant on civil rights and could be used to harass individuals. He stated that as much as he does not support anybody hiding wealth, the rights of the people should not to be stamped on very liberally and should be secured. He requested the Sponsor to study the matter further.

Senator Escudero stated that the provision stated by Senator Gordon was a recommendation emanating from AMLC and not an FATF imposition, the purpose of which is to give AMLC enough teeth to be able to do something when a situation similar to the Aman Futures pyramid scam arises. Senator Gordon surmised that the AMLC was probably aware that it could be held liable, prompting it to take all the necessary precautionary measures. He lamented that the ones who made the rules would be immune from prosecution in case they made a mistake in the rules.

Regarding Section 14 of the bill which seeks to amend Section 20 of the law, Senator De Lima noted that the bill allows for the restraint of the currency or bearer negotiable instruments not declared, or falsely or erroneously declared, or when there is reasonable ground to suspect that the currency or bearer negotiable instrument is related to money laundering or terrorism financing. She asked what the phrase "related to money laundering" meant and its difference from "related to a predicate offense" as stated in other provisions.

Senator Escudero agreed that only one phrase should be used for every section of the proposed amendment. He admitted that he was partly responsible for the amendment because there is no standard or rule as to what would happen to undeclared money in excess of US$10,000. He said that the act penalized is the non-declaration, not the actual bringing of cash in excess of US$10,000. Therefore, he said that the proposed provision sought to provide some rhyme and reason into how the money would be treated, and for an authority or an office to be given the actual duty and responsibility to make that determination if the money would be kept by the person who did not declare it or if it should be withheld or kept by the government. Senator De Lima surmised that it happens when there is reasonable ground to believe that the currency or bearer negotiable instrument which was not declared, was falsely declared or was erroneously declared, is related to money laundering or to a predicate offense.

Senator Escudero disclosed that when he inquired from the Bureau of Customs as to how much money it had withheld so far, no one could answer because there were no rules as to where it should be kept and how it should be transferred to the succeeding officers, and so he thought that it would be an opportune time to provide some rhyme and reason with respect to the monies confiscated or kept by the Bureau of Customs whenever someone makes a false declaration on the amount of cash brought into the country.

On Section 9 of the bill regarding the AMLC's authority to inquire into bank accounts, Senator De Lima noted that the AMLC is authorized to make an *ex-parte* application to look into bank accounts when there are reasonable grounds to suspect that the deposits or investments, including related accounts involved, are related to a predicate offense. She then asked if there was any reason why the qualifier for the cross-border restraint of money is different from the investigatory power of AMLC on bank accounts. She said that as earlier mentioned, there seemed to be no difference between the use of the phrase "related to money laundering" and "related to a predicate offense." Senator Escudero said that the phraseology would be made uniform.

Senator De Lima also noted that the proposed measure seeks to add additional conditions on the definition of suspicious transactions under Section 3 (B-1): that the covered person suspects or has a reasonable ground to suspect that the monetary instrument or property is the proceeds of or is in any way related to a predicate offense or there are circumstances determined to be suspicious by the Anti-Money Laundering Council. Asked by Senator De Lima for an example of circumstances determined suspicious by the AMLC, Senator Escudero said that those were the words used and recommended by the FATF in its recommendations which seem to be the standard applied by other countries in their respective jurisdictions. He said that an example of a suspicious transaction would be if it is not consistent with the

financial capacity of the person involved, in this case, the depositor, in his or her regular transactions with a banking institution, and all of a sudden, a particular transaction spiked and it is not completely in accordance with his or her behavior in the previous years that the person has transacted with the bank.

On the matter of "malicious reporting" on page 16, lines 18 to 25 of the bill, Senator De Lima asked whether the coverage and penalty contemplate false reporting by any individual, institution, covered or not by the AMLC, Senator Escudero replied in the affirmative.

Asked by Senator De Lima whether chipwashing or junket operators as defined on page 6, and junket player on page 7, cover both Filipinos and foreigners, Senator Escudero said that a junket operator is just like an agent or salesman who talks to a casino and the casino offers him a percentage on winnings. He explained that the junket operator brings the players to the casinos, guarantees and settles payment whether or not the players win or lose. He said that the operator would settle with the casino depending on his credit or debit account with a casino, which he simply offsets and at the same time, would also have a debit or credit account with the players who play in other jurisdictions.

Senator Escudero said that the actual transfer of cash is not known to the casino but is provided on a CDD or client due diligence. He said that a CDD basically requires the casino to know not only the junket operators which is the prevailing system in the country, but the actual players themselves. He disclosed that in Singapore, players actually have to present a government-issued document allowing them to play in the casino but Singaporeans are not allowed to play and should they be allowed to play, they are required to pay a certain amount. He further explained that in practice, a junket player can only be a foreign-passport holding individual because of the limit placed on that person with regard to the amount of money he or she can bring in the country, which is not more than US$10,000. However, theoretically, he said that there could also be a local junket player but there would no reason to do so unless that local junket player and a junket operator would find a mutually rewarding financial arrangement.

Asked by Senator De Lima on the idea of proposing the exclusion of the BSP governor from the membership or the chairmanship of the AMLC, Senator Escudero replied that the proposal came from Representative Gloria Macapagal Arroyo but she has withdrawn the proposal. He said that Congresswoman Arroyo initially had reservations because according to her, the position was a position of integrity and it might be affected by the absence or lack of integrity on the part of each other's members. He opined that putting the BSP governor in the AMLC was logical because the BSP has integrity and the more reason that it should be in the Council.

Senator De Lima observed that the proposed amendments do not really offer to change the composition of the AMLC. Senator Escudero remarked that it was all a balancing act. He said that on one hand, government might want to use it against its opponents whoever it wants to run after, but on the other hand, it also has to protect certain citizens, such as members of the opposition or any other person who might not be in the list of favorite people of any sitting administration.

In closing, Senator De Lima said that it would really all depend on the national leader's character and sense of integrity and fairness.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1256

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

COMMITTEE REPORT NO. 8 ON SENATE BILL NO. 1233
(*Continuation*)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1233 (Committee Report No. 8), entitled

AN ACT CREATING THE COCONUT FARMERS AND INDUSTRY TRUST FUND, PROVIDING FOR ITS MANAGEMENT AND UTILIZATION, AND FOR OTHER PURPOSES.

Senator Sotto stated that the parliamentary status of the bill was the period of interpellations.

The Chair recognized Senator Pangilinan, sponsor of the measure, and Senator Recto for the continuation of his interpellation.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:45 p.m.

RESUMPTION OF SESSION

At 5:04 p.m., the session was resumed.

MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan informed the Body that the previous week, upon the manifestation of Senator Gordon and with the concurrence of Senator Recto, the Committee on Agriculture and Food was requested to put together a timeline of the different laws, the different levies imposed, the rulings of the Supreme Court as well as the disbursements of the coco levy fund.

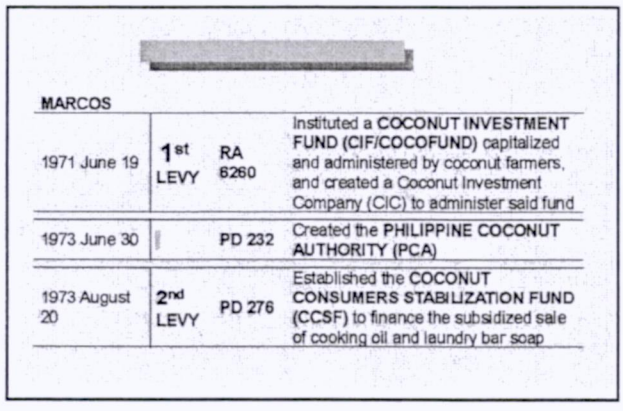
Senator Pangilinan then presented the three different timelines of the coco levy fund, as follows: 1) the timeline that will provide the pertinent laws; 2) the timeline with the pertinent rulings of the Supreme Court; and 3) the timeline of disbursements. He said that the timelines would be the highlights of the coco levy fund but the Committee would submit the pertinent laws to Senator Recto and to the other Members of the Chamber.

REQUEST OF SENATOR SOTTO

Senator Sotto informed the Body of a resolution requiring that audio-visual presentations on the floor would be incorporated in the Journal. Thus, he requested Senator Pangilinan to provide the Secretariat with the copy of the timelines so that it would be reflected in the Journal.

INTERPELLATION OF SENATOR RECTO
(*Continuation*)

Preliminarily, Senator Pangilinan showed the first timeline, the coco levy highlights of collection and pertinent laws, which started from 1971 under Republic Act No. 6260.



MARCOS			
1971 June 19	1st LEVY	RA 6260	Instituted a **COCONUT INVESTMENT FUND (CIF/COCOFUND)** capitalized and administered by coconut farmers, and created a Coconut Investment Company (CIC) to administer said fund
1973 June 30		PD 232	Created the **PHILIPPINE COCONUT AUTHORITY (PCA)**
1973 August 20	2nd LEVY	PD 276	Established the **COCONUT CONSUMERS STABILIZATION FUND (CCSF)** to finance the subsidized sale of cooking oil and laundry bar soap

Senator Recto noted that prior to 1971, the Philippine Coconut Producers Federation, Inc. was established in 1947 which would play an important role later on in these timelines. He then asked who comprised the organization and where they came from because they would be represented later on in the different bodies created from 1971 onwards. Senator Pangilinan replied that he would be able to answer such inquiry at a later time.

Senator Pangilinan stated that after 1947, during the Marcos regime, on June 1971, the first levy was imposed and Republic Act No. 6260 instituted the Coconut Investment Fund (CIF) which was capitalized and administered by the coconut farmers through the Coconut Investment Company (CIC). He explained that the CIC was a capital fund for the corporation and it was intended to be a government corporation but subsequent presidential decrees made it a private corporation.

Asked who were the board members or stockholders of the CIC and its capitalization from the CIF, Senator Pangilinan replied that he would furnish Senator Recto with the data as soon as the Committee would have it.

As regards the collection of the levy fund, Senator Pangilinan replied that the total collection was P158 million in a span of almost 10 years which was paid by the farmers and remitted to the Philippine Coconut Administration (PHILCOA), a government entity, which was eventually replaced by Philippine Coconut Authority by virtue of PD 232.

As to the members of the PHILCOA then, Senator Pangilinan replied that the Committee does not have the information yet but would submit it to the Body as soon as they have it. Senator Recto explained that he asked such question because what is being created in the proposed bill is very similar to what was created in 1971.

Senator Pangilinan agreed with Senator Recto that it is similar structurally, but there was no choice, he said, because there had been a lot of intervening events since then that necessitated the crafting of the right piece of legislation to address the gaps and the problems that were created.

Senator Recto maintained that it is seemingly similar in that it is a trust fund to be controlled by unelected officials appointed by the President. As to choice, he said that there is a choice at present because there is already Congress. He said that the money need not be a trust fund but it could be temporarily a trust fund because the money is with the PCGG and administered by the Bureau of Treasury. He stressed that its spending should not be perpetual and it could be spent immediately for the coconut industry. He noted that the coconut farmers then were better off than the coconut farmers at present, and that the productivity of coconut farmers then was higher than the productivity of the coconut farmers at present.

Senator Recto pointed out that there have been many presidential decrees or republic acts that were enacted since then up to the present supposedly for the benefit of coconut farmers but most of those funds were administered by unelected officials appointed by the President. He said that since the Body would be starting on the coco levy fund established since 1971, it is important to find out who were the board of directors of the CIC and the CIF, which were similar to the trust fund that would be created by the proposed measure. He stressed that there is also the need to know if the money was collected by private people, by the government or by the millers, among others, and who eventually paid for it. He said that after that, the Body could then move to 1973 or to the next presidential decree to learn from all the facts.

Senator Pangilinan stated that during the period of amendments, the Committee could craft a provision that would capture the inputs and points raised by Senator Recto. He then proceeded to discuss PD 232, the second levy which took effect on August 20, 1973.

Senator Recto stated that prior to PD 232, PD 230 was created in June 1973 to establish incentives for greater coconut industrial processing which also set export tariffs. He said that it was the exporters, not the farmers, who pay the taxes.

Senator Pangilinan confirmed that based on the data and consultations with the farmers, the millers paid the taxes but it was collected from coconut farmers.

Asked which government agency collected the tariffs, Senator Pangilinan replied that the Bureau of Customs collected, but clarified that according to the PCA and the PCGG, the collection was not part of the levy.

Senator Recto then inquired why the collection did not form part of the levy and whether or not the collection was part of the funds that is being contemplated in the proposed measure. He noted that some of the funds have been identified but not all.

Senator Pangilinan reiterated that according to the information and documents presented by the PCGG and PCA, the collection was not part of the missing funds.

Asked if the collection was from the coconut industry, Senator Pangilinan replied in the affirmative.

As to the role of the Philippine Coconut Federation or the PCA in the tariff collection, Senator Pangilinan stated that the two agencies did not have a role in the collection. Senator Recto expressed doubt that the PCF and the PCA did not play a role in collecting the money. He stated that after PD 230, another decree was created, again for export tariffs.

Senator Pangilinan stated that the other decree on export tariffs was used in funding research and establishing centers. He supposed that PD 230 was utilized for the coconut industry development as well.

On another matter, Senator Pangilinan informed the Body that in June 1973, PD 232 created the Philippine Coconut Authority (PCA) replacing the PHILCOA. He said that he would submit to the Body the composition of the first board at a later time, adding that subsequent PDs amended the composition of the board.

Senator Recto stated that in PD 232, there were 11 members of the board, similar to the proposal of the bill and that the bill proposes to have a three representatives from the private sector.

Senator Pangilinan explained that the board would be composed of three private sector representatives appointed by the President, the chair of the National Science Development Board, the undersecretary of Agriculture, undersecretary of Natural Resources, undersecretary of Trade, president of the COCOFED, chairperson of the UCAP and chairperson of the board of Coconut Investment.

On whether the planning for the coconut industry is centralized, Senator Pangilinan replied in the affirmative. He stated that the PCA consolidated and abolished the task of the Coconut Coordinating Council, the Philippine Coconut Administration and the PHILCORIN, the director of the Bureau of Plant Industry and the director of the Bureau of Agriculture extension.

On another matter, Senator Pangilinan stated that the second levy, PD 276, established the Coconut Consumers Stabilization Fund in August 1973 which was meant to finance and subsidize the sale of cooking oil and laundry bar soap. He explained that the initial cost of copra then was P15/100 kilos of copra and that the fund was a separate trust fund which did not form part of the general fund.

As to the source of fund, Senator Pangilinan stated that it was collected from coconut farmers. He said that the decree provided that the collection be taken from the first domestic sale, from the farmer to the miller.

Senator Recto believed that the government collected from the miller. Senator Pangilinan clarified that in practice, the millers would get from the farmers, set it aside and turn it over to the government. He said that the PCA collected the fund which was intended to be imposed for a year but it was extended.

As to how much was collected by the PCA, Senator Pangilinan replied that P6.6 billion was raised.

At this juncture, Senator Recto inquired why there was a need for a Coconut Consumers Stabilization Fund.

In reply, Senator Pangilinan stated that it was in response to the unstable and fluctuating prices of vegetable oil in the international market. He said that based on the data the price of vegetable oil in 1973 was P0.10 per pound and it went as high as P0.625 per pound a year later.

Senator Recto posited that the PCA collected it from the miller which was then passed on to the consumers.

1974 February 17	EO 425	Imposed premium duty on certain export products, including coconut, in addition to export tariffs provided for under RA 1937, as amended by PD 230
1974 April 18	PD 414	Further amended PD 232; Expanded CCSF's purpose to cover investments for: 1. processing plants 2. research, and extension services 3. 90% of premium duties on export of coconut products

Senator Pangilinan stated that in February 1974, EO 425 was created to impose premium duty on certain export products, including coconut, in addition to export tariffs. He said that tariffs were imposed on exported copra, 30%; desiccated coconut, 20%; copramil and coconut oil; lower tariffs were collected for oil, mill and desiccated oil. The tariffs were collected by the BOC, he added.

Asked by Senator Recto whether the money was turned over to the PCA, Senator Pangilinan stated that the data was not available at the moment but the Committee would secure the information during the course of the interpellation.

Senator Recto observed that if the thrust of EO 425 was to impose premium duties, it meant that the tariffs were to be taken on processed products, from the manufacturers, exporters and refiners and not from the farmers.

Senator Pangilinan stated that based on the 1986 COA report, the first tariff was different from the second tariff and that P173 million was reimbursed to the millers.

Asked for the length of time the tariffs were collected, Senator Pangilinan stated that the Committee would provide the Body the information at a later time. He stressed that P173 million reimbursement, based on the 1986 COA report, came from the tariffs collected from the payment of premium duty on export products under EO 425. He said that a copy of the 1986 COA report would be given to the Body.

Thereafter, Senator Pangilinan stated that in April 1974, PD 414 was created to further amend PD 232, expanding the CCSF's purpose to cover investments for processing plants, research and extension services and 90% of premium duties on coconut products.

Senator Recto observed that supposedly the laws were enacted to help the coconut industry by collecting taxes from the farmers and the millers, then government would make it appear that it knows better how the industry's money would be spent. He averred that during that time, the contribution of agriculture, particularly the coconut industry, was very significant.

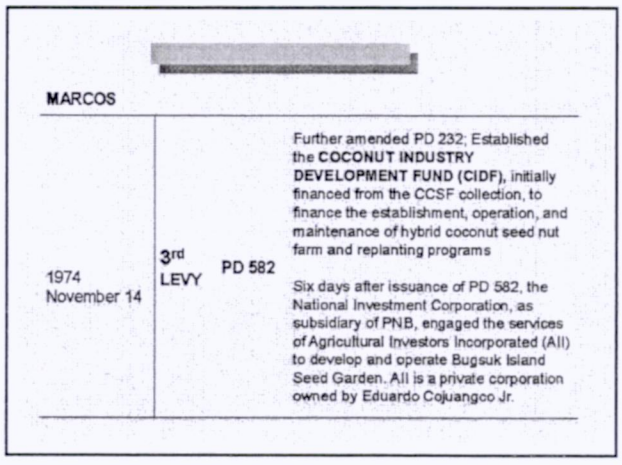
Senator Pangilinan stated that it is still significant to this day as it is considered as the largest dollar earner as far as agricultural exports are concerned.

Senator Recto agreed with Senator Pangilinan. However, he also stated that the coconut industry's contribution to agriculture is below one percent, while the overall agriculture revenue contribution is 11%. He lamented that the coconut industry was doing fine until government got involved and increased taxes that were collected from farmers and millers. He stated that government supposedly appointed representatives from the private sector in the guise of having a private sector representative in the Board which, in turn, was used as collecting agents. He asserted that the coconut farmers and its industry are worse off today than ever.

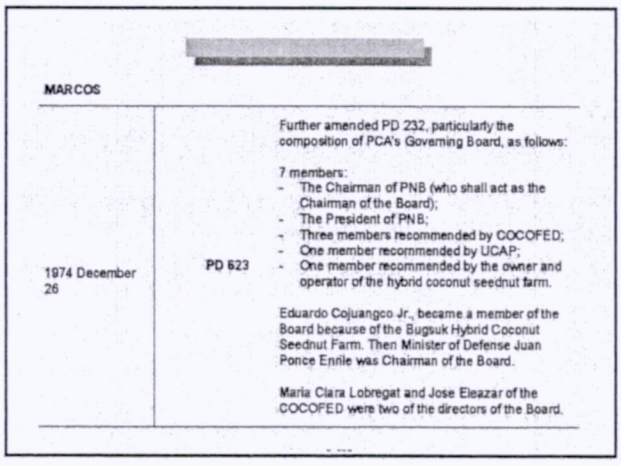
Agreeing with Senator Recto's observation, Senator Pangilinan reiterated that in his sponsorship speech, he spelled out the great injustice that was committed to the farmers by using and abusing the Coco Levy Fund which was extracted from them.

Citing PD 414, Senator Recto noted that the levy taken from the farmers and millers would be used to put up processing plants and for research and development and extension services. He stated that the decree had good intentions on paper.

He observed that based on the history of the trust funds and special bodies that were created, the bill under consideration is similar to what had already been done in the past. He stated that the past administrations used unelected private personalities to control the trust funds, and he reminded the Body that during the time of President Marcos, the laws were all presidential decrees, because there was no Congress.



MARCOS			
1974 November 14	3rd LEVY	PD 582	Further amended PD 232; Established the **COCONUT INDUSTRY DEVELOPMENT FUND (CIDF)**, initially financed from the CCSF collection, to finance the establishment, operation, and maintenance of hybrid coconut seed nut farm and replanting programs Six days after issuance of PD 582, the National Investment Corporation, as subsidiary of PNB, engaged the services of Agricultural Investors Incorporated (AII) to develop and operate Bugsuk Island Seed Garden. AII is a private corporation owned by Eduardo Cojuangco Jr.



MARCOS			
1974 December 26		PD 623	Further amended PD 232, particularly the composition of PCA's Governing Board, as follows: 7 members: - The Chairman of PNB (who shall act as the Chairman of the Board); - The President of PNB; - Three members recommended by COCOFED; - One member recommended by UCAP; - One member recommended by the owner and operator of the hybrid coconut seednut farm. Eduardo Cojuangco Jr., became a member of the Board because of the Bugsuk Hybrid Coconut Seednut Farm. Then Minister of Defense Juan Ponce Enrile was Chairman of the Board. Maria Clara Lobregat and Jose Eleazar of the COCOFED were two of the directors of the Board.

On another item, Senator Pangilinan stated that the third levy was PD 582, which further amended PD 232 that established the Coconut Industry Development Fund (CIDF). He said that six days after the issuance of PD 582, the National Investment Corporation, a subsidiary of the Philippine National Bank, engaged the services of Agricultural Investors Incorporated (AII) to develop and operate Bugsuk Island Seed Garden, a private corporation owned by Eduardo Cojuangco Jr.

Senator Recto reiterated that in 1974, there was no Congress or *Batasang Pambansa*, therefore, there were no representatives elected. He said that the President did whatever he wanted to do with the levy. He stated that the problem is that the measure seeks to create another body that is going to administer an off-budget item which would not be subject to Congress' scrutiny; it is another body again which will duplicate the authority of the PCA and would administer funds or determine how it would be invested.

Senator Pangilinan explained that the Industry Development Plan which is envisioned in the bill would delineate the functions of the PCA by specifying and duplicating the functions of the Trust Fund Committee. Senator Recto agreed, but he argued that the Trust Fund Committee would appoint again, for instance, an investment manager or decide where to invest or what to privatize.

For his part, Senator Pangilinan stressed that the incident happened because there was no Congress and that one man was dictating how policy and law should be crafted. He believed that such incident would not happen because there is already Congress that can hold hearings in aid of legislation.

Senator Recto asked if the fund of P35 billion with the Bureau of Treasury was earning or not. Senator Pangilinan clarified that the fund is P76 billion and its earnings accrue not to the funds itself but to the general fund. Thus, Senator Recto opined that the fund is not actually earning because it is not going to the coconut farmers and it is an off-budget item.

Senator Pangilinan clarified that there are two funds that comprise the P76 billion, P62 billion of which is commingled. Senator Recto surmised that once the trust fund was created, the government borrowed money and put it in a trust fund. Senator Pangilinan agreed to the observation.

Senator Recto surmised that Congress would not anymore see the funds because the Trust Fund Committee would be the one to determine how they would be spent in the future. Senator Pangilinan explained that there are mechanisms that would allow Congress to scrutinize the funds but not in the context of budget scrutiny.

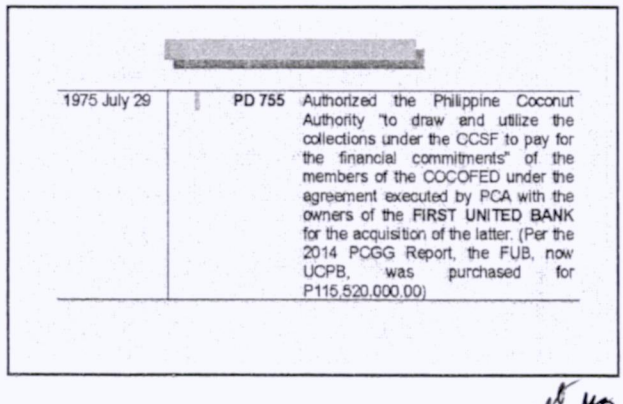
At this juncture, Senator Pangilinan recalled the request of Senator Recto as regards the number of trust funds created by the national government which he assured would be submitted to the Body.

Senator Recto stated that a year after PD 623 was enacted, a new law further amended PD 232 and created a seven-member board of the PCA namely, the chairman of the PNB, who will be the chairman of the board; president of the PNB; three members recommended by COCOFED; one member recommended by the United Coconut Association of the Philippines (UCAP); and one member recommended by the owner and operation of the Hybrid Coconut Seed Nut Farm.

Asked on the number of members who came from the private sector, Senator Pangilinan replied that five came from the private sector. Senator Recto surmised that a lot of consultations among the members of the coconut farmers or industry happened that time. Senator Pangilinan disagreed, saying that the government then was under a dictatorship. For his part, Senator Recto presumed that the same thing would happen in the current proposal because the members are all presidential appointees.

Senator Pangilinan pointed out several differences when PD 623 was issued, for instance, that the decree was created simply to allow Mr. Cojuangco to sit as board member of the PCA as he owned the Bugsuk Hybrids Coconut Seed Nut Farm with then Minister of Defense, Juan Ponce Enrile who was chairman of the board, and COCOFED members Ma. Clara Lobregat and Jose Eleazar.

Asked on the relationship of COCOFED with the Philippine Coconut Producers Federation in 1974, Senator Pangilinan replied that he still has to look at the composition but surmised that they are the same.



1975 July 29	PD 755	Authorized the Philippine Coconut Authority "to draw and utilize the collections under the CCSF to pay for the financial commitments" of the members of the COCOFED under the agreement executed by PCA with the owners of the FIRST UNITED BANK for the acquisition of the latter. (Per the 2014 PCGG Report, the FUB, now UCPB, was purchased for P115,520,000.00)

Senator Recto noted that in July 1975, PD 755 authorized the Philippine Coconut Authority to draw and utilize the collections under the CCF to pay for the financial commitments of members of the COCOFED under the agreement executed by PCA with the owners of the First United Bank for its acquisition at the cost of P150,000,520.

Asked who owned the First United Bank, Senator Pangilinan said that the First United Bank was owned by Pedro Cojuangco and that the key person in the PCA was also from Tarlac.

Asked why the United Coconut Planters Bank was created, Senator Pangilinan replied that it was created so that the farmers could have access to credit.

Asked whether Landbank was already in operation in 1975, Senator Pangilinan admitted that he still needs to get information about the matter.

On whether UCPB offered loans to farmers, Senator Pangilinan admitted that he has no record about it but surmised that it lent to planters but that small farmers were not given credit because they did not have the collateral.

Senator Recto stated that in 1986, UCPB was taken over when the PCGG was created. Senator Pangilinan confirmed that the bank was sequestered.

Asked on the financial statement of UCPB before and after it was sequestered and on the condition of UCPB after the sequestration, Senator Pangilinan said that he would request from the bank their financial statement. As regards the condition of the bank after the sequestration, Senator Pangilinan replied that the government had to infuse more capital when the PCGG took over because it was losing.

Senator Recto pointed out that the government sequestered the bank but that it was not provided in the bill that the UCPB would be privatized. He wondered whether the government should continue running UCPB to the ground. He also wondered about the oil mills that the PCGG and the government have been running to the ground, whether the mill's operation would be continued considering their losses, or whether the government would just sell the assets to the private sector.

Senator Pangilinan explained that the bill aims to provide the decision-making powers as regards privatization to the Trust Fund Committee.

Citing the case of the UCPB which the government bought, Senator Recto suggested that the government sell all the assets and that it must not get involved in such initiative. He noted that in the bill, it was mandated that the committee which would be appointed by the President would determine where to invest, what to and what not to sell without the scrutiny of Congress. He said that Congress would never know unlike the General Appropriations Act, and it is a trust fund outside of the purview of Congress.

Senator Recto argued that the bill of such kind poses a lot of problems because people would lobby from one pocket to another for a chance to manage the trust fund. He noted that during the time of Marcos, the process was easy because there was no Congress. However, with Congress in the present set-up, he said that the process could not be allowed since it concerns public funds even if it would be the President who would appoint new people and administer such funds.

Senator Pangilinan believed that there is no guarantee that there could be a better chance of the funds being utilized even if there is congressional scrutiny. Senator Recto disagreed, saying that there would be a better chance to utilize the funds because there would be a representative of the people looking after the funds.

Senator Pangilinan cited the ACEF which was a trust fund but was administered by congressmen and senators. Senator Recto added that there were also people from the Department of Agriculture who were members of ACEF which was not a part of the GAA and, thus, not debated every year in Congress. Senator Pangilinan said that the ACEF was eventually suspended.

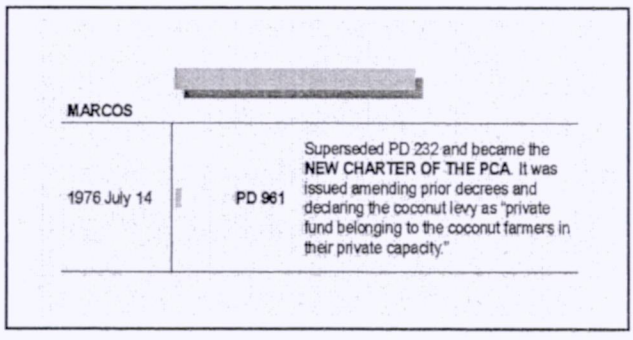
As regards AFMA, Senator Recto said that the funds came from tariffs. He stated that Congress created a body outside of Congress following pressure from the Executive, and that the people who would run the trust fund would come from the Executive, Congress, private sector and the chairpersons of the Agriculture Committee of both Chambers who would talk among themselves. He said that there were no debates about the matter among 300 members.

Senator Recto wondered on the purpose of Landbank and UCPB, noting that the purpose of the latter is to provide financial assistance to coconut farmers which it does not; instead, it is being run like a commercial bank, competing with BDO, BPI

and Metrobank. He said that the seed capital of the coconut farmers has been used up and the PDIC even infused capital to the bank and that the money used came from taxpayers.

Asked whether the government would continue to run the bank, Senator Pangilinan replied that the Committee is willing to look into the proposed amendment.

As regards the oil mills, Senator Recto asked whether the oil mills were owned privately when the government bought them in 1974 and whether they were operational when bought. Senator Pangilinan replied that they were privately-owned when the government bought them. Senator Recto lamented that the PCGG administered and ran to the ground the oil mills and because of the "*palakasan* system," it eventually contributed to the downfall of the oil mills because the general manager was an appointee. He asked who would manage UCPB if not sold by the government and who would compose the board of directors of the bank. He surmised that the board would be composed of a small group of people who would eventually determine the fate of the bank. He asked that the financial statement of UCPB be submitted to the Body as well as the six oil mill group of companies. Senator Pangilinan assured the information would be provided as requested.



MARCOS		
1976 July 14	PD 961	Superseded PD 232 and became the **NEW CHARTER OF THE PCA**. It was issued amending prior decrees and declaring the coconut levy as "private fund belonging to the coconut farmers in their private capacity."

Senator Pangilinan further disclosed that PD 961 superseded PD 232 and became the new charter of the PCA and that such was issued, thereby amending prior decrees and declaring the coco levy as private fund belonging to the coconut farmers in their private capacity.

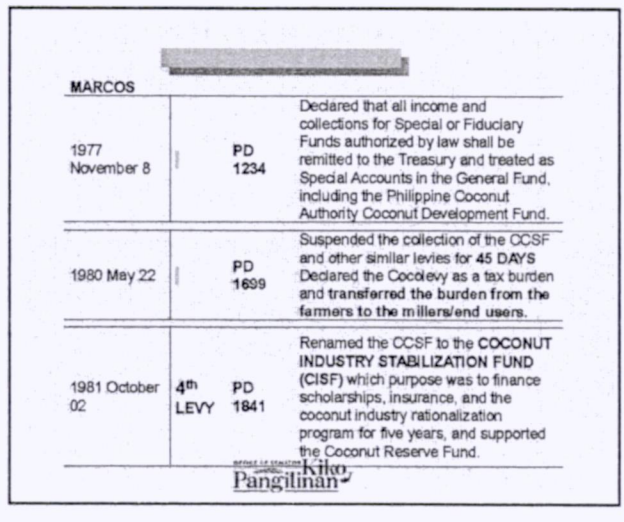
Senator Recto surmised that the decree further strengthened the PCA again with PHILCOA and PHILCORIN being transferred under the PCA. He said that the same decree also gave the UCPB full power and authority to make investments and shares of corporations organized for the purpose of engaging in the establishment and operation of industries and commercial activities relating to the coconut industry.

For his part, Senator Pangilinan said that PD 961 was issued amending prior decrees and declaring a private fund belonging to the coconut farmers. He said that it was intended to prevent the Commission on Audit from meddling into the coconut levy funds which was intended to make the coconut farmers believe that the continuing exaction of the levy fund was for their own good.

Asked if new auditors would be appointed if the Trust Fund Committee would be created, Senator Pangilinan answered in the affirmative, saying it would follow the rules of the Commission on Audit.

Asked on the number of auditors in the plantilla position of COA, Senator Pangilinan admitted that he does not have the data from COA but only from PHILCOA.

Senator Recto disclosed that during the budget deliberations, it was revealed that COA has 15,000 COA auditors with only 8,000 plantilla, 6,000 of whom are detailed in LGUs and only 2,000 in the national government, the reason why most of the cases filed are against local governments.



MARCOS		
1977 November 8	PD 1234	Declared that all income and collections for Special or Fiduciary Funds authorized by law shall be remitted to the Treasury and treated as Special Accounts in the General Fund, including the Philippine Coconut Authority Coconut Development Fund.
1980 May 22	PD 1699	Suspended the collection of the CCSF and other similar levies for 45 DAYS Declared the Cocolevy as a tax burden and transferred the burden from the farmers to the millers/end users.
1981 October 02	4th LEVY PD 1841	Renamed the CCSF to the **COCONUT INDUSTRY STABILIZATION FUND (CISF)** which purpose was to finance scholarships, insurance, and the coconut industry rationalization program for five years, and supported the Coconut Reserve Fund.

Kilos Pangilinan

Senator Pangilinan stated that on November 8, 1977, Presidential Decree No. 1234 declared that all income and collections for special or fiduciary funds authorized by law shall be remitted to the Treasury and treated as Special Accounts, including the Philippine Coconut Authority Council Development Fund. He said that PD 1699 suspended the collection of CCSF and other similar levies for 45 days, declared the coco levy as a tax burden and transferred the burden from the farmers to the millers or end-users.

Senator Recto, however, pointed out that in October 1978, exporters were required to pay minimum duties again on coconut exports in full, and in February 1979, UCPB purchased Leg Oil from Ayala-Mitsubishi group so there was a new subsidy scheme. He further disclosed that in March 1979, the premium duties and coconut exports were reduced, all of which went to the coco levy fund. Senator Pangilinan conceded.

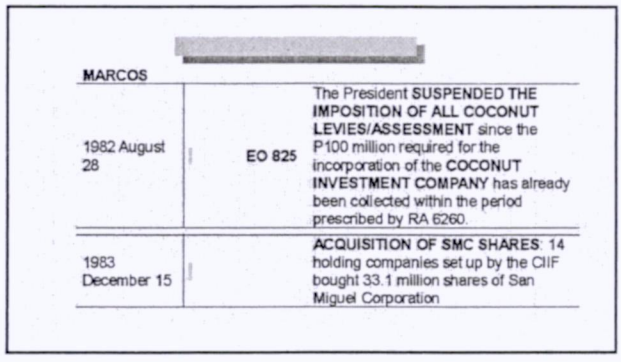
As regards Letter of Instruction 926 which established 19 coconut oil mills, Senator Pangilinan said that it created the United Coconut Oil Mills (UNICOM) wherein a portion of levy funds from the CIIF was invested in a private corporation to pool and coordinate the resources of farmers and millers in the buying, milling and marketing of copra and coconut oil. He said that UNICOM used P2.5 billion for the set up.

To the statement that the program was also the game plan used by President Marcos for the coconut industry, Senator Pangilinan acknowledged that it was an effort to monopolize the coconut industry. On the contrary, Senator Recto asserted that now-here in Presidential Decree No. 1841 was the word "monopolize" used, inasmuch as it was a roadmap for the coconut industry which, he believed, was similar to what the bill intends to do.

Senator Pangilinan disclosed that the enactment of PD 1699 prompted political opposition among coconut farmers because they were complaining about the coco levy; hence, the suspension of collection of the Coconut Consumers Stabilization Fund Levy (CCSF) for 45 days.

Senator Pangilinan further disclosed that on October 2, 1981, a fourth levy, Presidential Decree No. 1841, renamed the CCF to Coconut Industry Stabilization Fund (CISF) with the purpose of financing scholarships, insurance and the coconut industry rationalization program for five years and supported the Coconut Reserve Fund.

He said that on August 28, 1982, President Marcos, through Executive Order No. 825, suspended the imposition of all coconut levies/assessment such that P100 million required for the incorporation of the CIC has already been collected within the period prescribed by Republic Act No. 6260. Asked how much was collected as of 1982, Senator Pangilinan stated that the total amount collected was P9.6 billion based on the COA and PCGG report; it was not reflected if some of the amounts were paid or not.



MARCOS		
1982 August 28	EO 825	The President **SUSPENDED THE IMPOSITION OF ALL COCONUT LEVIES/ASSESSMENT** since the P100 million required for the incorporation of the **COCONUT INVESTMENT COMPANY** has already been collected within the period prescribed by RA 6260.
1983 December 15		**ACQUISITION OF SMC SHARES**: 14 holding companies set up by the CIIF bought 33.1 million shares of San Miguel Corporation

Asked if the collections grew to more than P100 billion worth of investments, Senator Pangilinan said that not all went to investment. In fact, he said that P7.1 billion of the P9.6 billion was actually spent. Thereupon, Senator Recto requested a copy of the itemized expenditure of the total collection.

Of the total investment, Senator Recto said that only P2.5 billion remained which was eventually invested in San Miguel shares, eventually becoming P76 billion plus assets with CIIF of approximately P20 billion. He said that in December 1983, P9.6 billion was used to acquire shares from San Miguel Corporation (SMC). He said that the 14 companies set up by CIIF bought 33.1 million shares of SMC.

Asked how much was the 33 million shares of SMC then, Senator Pangilinan said that at P50 per share, the amount was P1.656 billion out of the P2.5 billion investment and, thereafter, the balance was invested in six oil mills. He revealed that the P1.65 billion was actually loaned from UCPB and the P976 million loan went to purchase the six oil mills. He added that P680 million of the loan went to equity advances of the 14 holding companies which purchased SMC shares for P753 million.

Asked on the timeline of disbursements, Senator Pangilinan said that P2.1 billion went to different oil millers and manufacturers; P173 million was paid to the Bureau of Customs in behalf of coconut product exporters; P242 million was used to finance research and development programs, extension services and other operating expense of the PCA; P52 million was used to finance the purchase and distribution of fertilizers; P40 million was donated by PCA for the Coconut Palace; P50 million was donated for the construction of the *Lungsod ng Kabataan* Hospital; P2.6 million was used for the research project

producing oil and protein material from coconuts; P1.189 billion was used to pay capital stocks of UNICOM; P38 million was debt service fund used by UCPB to discharge certain liabilities of the oil mills that were acquired in the process of the rationalization of the coconut industry; P1.47 billion was used to defray the cost of planting hybrid seed nuts (Bugsok Project); P115 million was used to buy the controlling equity for First United Bank; P23 million was spent by PCA for COCOFED Census Committee; P759 million was allocated to COCOFED as the duly recognized association of coconut farmers for its developmental and socio-economic projects; P144 million for Copra Stabilization Fund which was allocated to COCOFED as well to finance and organize COCOMARK; and P2.57 billion was deposited with UCPB which was used to finance the acquisition and organization of corporations relating to the coconut industry, such as UNICOM.

MANIFESTATION OF SENATOR SOTTO

With the indulgence of Senators Recto and Pangilinan, Senator Sotto manifested to adjourn the session and to continue with the interpellations on Senate Bill No. 1233 on the next session day. He asked Senator Pangilinan if he could furnish Senator Recto with the records that he was asking for.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1233

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

CHANGE OF REFERRAL

With the concurrence of Senators Gordon and Hontiveros, upon motion of Senator Sotto, there being no objection, the Chair approved the change of referral of Senate Bill No. 1326 (Safe Streets and Public Spaces Act of 2017) to the Committee on Women, Children, Family Relations and Gender Equality as the primary committee, and the Committee on Justice and Human Rights as the secondary committee.

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of the following day.

It was 6:11 p.m.

I hereby certify to the correctness of the foregoing.

ATTY. LUTGARDO B. BARBO
Secretary of the Senate

Approved on February 15, 2017