Peru's banks are now nationalized

by Peter Rush

After an all-night session Sept. 28, the Peruvian Chamber of Deputies passed the controversial bill nationalizing the nation's banking, financial, and insurance companies at midmorning, Sept. 29. The bill passed by a voice vote, supported only by the APRA party of President Alan García, having passed the Senate one day earlier.

The opponents of the bill, led by Bankers Association president Francisco Pardo Mesones, immediately announced that they would physically resist the takeover of their banks, by refusing to leave their offices and sleeping in. National television was invited to film several of the bank owners with the beds they had brought into their offices for the purpose. Waxing melodramatic, Mesones told the press he was certain he would win, "although it may cost time, or even my life." He charged, "If the government approves the law, the threat of the totalitarianism foreseen by the writer Mario Vargas Llosa will be fulfilled." The head of the businessmen's association, Confiep, Vega Llona, also joined the sleep-in, as did a battery of the bankers' lawyers.

In an attempt to intimidate the government, which instituted the drastic measure in an effort to stop drug-money laundering and capital flight, the bankers have been warning that the bill is unconstitutional and that to enforce it will open up the government and the APRA party to dire legal consequences. The bankers are basing their campaign on the ruling of a lower court judge, that the bill is unconstitutional. They have warned that the banks can only be expropriated by violating the constitutional separation of powers and abrogating the power of the judiciary.

They have further threatened that passage of the bill "would cause the growth of divisions among Peruvians," in the words of an ad taken out by the Confiep, a thinly veiled threat to stir up popular protests against the bill. Confiep president Vega Llona went on to say that the nationalization puts into question whether the APRA might now go on to nationalize other private industries.

In immediate response, Attorney General Dr. Hugo Denegri pointed out that constitutionally, the government not only has the right to carry out the nationalization, but that under the constitution, it must enforce the bill passed by the legislature, until and unless it might be overturned in the Court of Constitutional Guarantees. In a statement released Sept. 29, he said that for the government not to enforce the bill "implies sowing disorder, inciting anarchy, and disorganizing the republic." He added that precisely because the bill is now law, "the strange and absurd doctrine that incites people to disregard the law is foreign to the democratic regime and merits legal means to combat it, both preventive and repressive." He said the only legal avenue of challenge to the bill was in the Constitutional Court, and that until a ruling from that court is handed down, the government will carry out the letter of the new law.

The United Left (IU), which had supported the bill in debates, also turned at the last moment and voted against it, charging that changes voted in the Senate version vitiated its positive content. Following the vote, IU congressman Carlos Malpica, an early advocate of the nationalization, said, "It is not revolutionary, since it doesn't democratize anything, contrary to what the government says." He said, "What will occur is that the banks . . . will pass under the power of the members of the Executive Committee of the APRA."

While the Senate did reduce the government's percentage of shares owned from 85% to 70%, the changes do not appear to modify the operative portions of the bill. The left's opposition is no doubt intended to make it difficult to carry out the law, for fear its successful implementation would boost the political appeal of the APRA government, as its positive effects become visible in the economy.

The bill itself calls for the 33 nationally owned banks, financial houses, and insurance companies to be "statized," whereby the government will own 70% of the shares of the banks and between 51% and 70% of the shares of the insurance companies. The remainder may be held by the general public, but no one person may own more than 1%. That Vega Llona's "fear" of further nationalizations is a red herring, is demonstrated by other provisions of the bill, which mandate that the nationalized banks will lend to small- and medium-sized businesses for the first time, providing credit to the very enterprises Vega Llona claims are in jeopardy. The bill also sets up regional banks in every department of the country, charged with providing credit to the peasants and rural enterprises that have never had such access before, except through private usurers at ruinous rates.

In fact, the real issue is the effort of a tiny oligarchy of landed and banking families, who have heretofore operated the nation's banking system as their private preserve, laundering billions in drug money annually and lending money back and forth to a small circle of favored companies, to hold on to their power. Against them are ranged President Alan García, backed by most of his APRA party, and by millions of Peruvians mobilized by the President through more than 50 speeches across the country since Aug. 1, who want to democratize the economy as well as the political arena, and to unleash a new era of economic growth. The sleep-in bankers are terrified of nothing so much as the effective "democratization" of credit and the shutdown of the laundering of cocaine dollars the nationalization will ensure.