

RECORD OF THE SENATE

WEDNESDAY, AUGUST 2, 2000

OPENING OF THE SESSION

At 3:23 p.m., Hon. Juan M. Flavier, acting as the presiding officer, called the session to order.

The Presiding Officer [Sen. Flavier]. The sixth session of the Third Regular Session of the Eleventh Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Senate President Franklin M. Drilon.

Everybody rose for the prayer.

PRAYER

Senator Drilon.

God, our Lord,
Grant those who are entrusted with making the laws of this country strength and wisdom that they may be just and reasonable in all their decisions.

Grant us the power and courage to combat evil and help us resolve the unrest in our country so that we may restore Your given peace.

Help us, Your people, to a better Philippine nation, to accomplish Your will.

Grant us perseverance to restore the economy so that Your people may live their lives without giving in to the temptation of evil.

Most of all, Almighty God, grant us the wisdom to better understand ourselves, the Filipino people, so that we may be able to put all our differences aside and work in harmony to restore this great country to glory.

Amen.

SUSPENSION OF SESSION

The Presiding Officer [Senator Flavier]. The Chair declares a one-minute suspension to allow the Senate President to take over and preside over the session. I shall now go down reluctantly. *[Laughter]*

It was 3:24 p.m.

RESUMPTION OF SESSION

At 3:25 p.m., the session was resumed.

The President. The session is resumed.

The Secretary will please call the roll.

ROLL CALL

The Secretary, reading:

Senator Teresa Aquino-Oreta	Present
Senator Robert Z. Barbers.....	Present
Senator Rodolfo G. Biazon	Present
Senator Renato L. Compañero Cayetano ..	Present
Senator Anna Dominique M.L. Coseteng .	Present
Senator Miriam Defensor Santiago	Present
Senator Juan Ponce Enrile.....	Present
Senator Juan M. Flavier	Present
Senator Teofisto T. Guingona Jr.	Present
Senator Gregorio B. Honasan	Present
Senator Robert S. Jaworski	Present
Senator Loren B. Legarda-Leviste	Present
Senator Ramon B. Magsaysay Jr.	Present
Senator Blas F. Ople	Present**
Senator John Henry R. Osmeña	Present**
Senator Sergio R. Osmeña III	Present*
Senator Aquilino Q. Pimentel Jr.	Present
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present**
The President	Present

The President. With 18 senators present, there is a quorum.

THE JOURNAL

Senator Sotto. Mr. President, I move that we dispense with the reading of the *Journal* of Session No. 5, Tuesday, August 1, 2000, and consider it approved.

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

Senator Sotto. I move that we proceed to the Reference of Business.

* Arrived after the roll call
** On official mission

But if the committee feels that such a provision is absolutely necessary, can there not be safeguards that we may add in this paragraph or in this recommendations section of the report so that we may, this early, prevent any municipality from colluding with a private enterprise to reclaim previously inalienable land by registering it in the municipality's name and then selling it off to a private entity?

Senator Pimentel. The points of the distinguished senator are very well taken. Therefore, if these powers at all are devolved to local government units, certainly safeguards have to be introduced to prevent graft from being inflicted upon the people in whose behalf reclamation of certain parts of the national patrimony may be done.

Senator Defensor Santiago. That is all with this committee report, Mr. President. I thank the distinguished chairperson for his graciousness in answering my questions.

Senator Pimentel. Thank you, Mr. President.

Senator Roco. Mr. President.

The President. Senator Roco is recognized.

Senator Roco. If the gentleman could yield for a few minutes, Mr. President.

Senator Pimentel. Yes, Mr. President.

Senator Roco. As luck would have it, Mr. President, I just came in from Kawit. I had lunch there on invitation of foreign friends. We ate in Covelandia, in a fishing village. And people from Kawit were reporting that because of all these reclamations, there has been constant flooding. Whereas before the people from Kawit were very proud that they were hardly ever flooded, now they are first to be flooded and last to be cleared of the floods.

I did not hear from the report any indication about environmental compliance, Mr. President, but I do recall that there is need for environmental compliance in projects like this. So, I was wondering if the distinguished chairman could include in his recommendations not only a submission of the report to the Department of Environment, or whatever the appropriate body may be, but on top of that, also recommend possible prosecution for violation of environmental laws.

Would this be a possible addition, Mr. President?

Senator Pimentel. Perfectly, Mr. President. Certainly, I would like to put on record that we did mention the fact that

environmental compliance certificate in this particular case has not been observed by the persons concerned. Therefore, we recommended their prosecution, as a matter of fact.

Senator Roco. On the environmental laws' violation. Very good indeed, Mr. President. We associate ourselves with the report.

Thank you, Mr. President.

Senator Pimentel. Thank you.

SUSPENSION OF CONSIDERATION OF COMMITTEE
REPORT NO. 227

Senator Sotto. Mr. President, to accommodate the wish and the desire of the other members of the Senate to prepare their proposed amendments to the report, which are subject to the approval of the sponsor, I move that we suspend consideration of Committee Report No. 227.

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

BILL ON SECOND READING
S. No. 2038 — Anti-Injunction Act of 2000
(Continuation)

Senator Sotto. Mr. President, I move that we resume consideration of Senate Bill No. 2038 as reported out under Committee Report No. 239.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2038 is now in order.

Senator Tatad. Mr. President, during the last session, we moved for a reconsideration of the closing of the period of interpellations. So, I move that the sponsor, Sen. Renato L. *Compañero* Cayetano be recognized; and for the interpellations, Sen. Raul S. Roco.

The President. Sen. Renato L. *Compañero* Cayetano, the principal sponsor, is recognized; Sen. Raul S. Roco, for the interpellations, is recognized.

Senator Roco. Mr. President, will the gentleman yield for some questions?

Senator Cayetano. Gladly, Mr. President, to the gentleman from Camarines Sur, Pennsylvania, and the Philippines.

Senator Roco. My wife, Mr. President, is not from

Pennsylvania; she is from Bohol. I will accept the identification of "from Bicol and Bohol" but not necessarily "from Pennsylvania."

But the gentleman from Taguig and Michigan cannot deny because the wife of the gentleman, who is my *kumadre*, is from Michigan.

Senator Cayetano. Actually, Mr. President, I added Pennsylvania because the esteemed colleague graduated from the University of Pennsylvania School of Law.

Senator Roco. Thank you, Mr. President. *[Laughter]*

Mr. President, I have some three points that I want to take up with the gentleman in this Body.

The first point is a question of policy. The second point is whether there is any need for the bill, as crafted; and the third point refers to the impracticability of the bill as crafted. It may, of course, be cured. Or, which may be explained with greater clarity for my understanding by our distinguished friend from Taguig and Michigan.

As a preliminary question, I do recall that our distinguished friend, as counsel then of President Ramos, was explaining on TV once that under existing law—and he identified even in his sponsorship speech—PD No. 1818, this effort or one of the objectives of this bill is really being sought to prohibit the issuance of temporary restraining orders. I thought, when he was explaining it on TV then, it was a brilliant explanation. May we then ask now why such a brilliant explanation is being repudiated by the gentleman after he became senator, and after he has ceased to be counsel of the President. May we ask what made him change his mind?

Senator Cayetano. Mr. President, I thank my esteemed colleague for that question. No, I have not changed my mind. Indeed, a number of times, when I was presidential legal counsel, I invoked PD No. 1818 in order to remind lower court judges about the prohibition on the issuance of TRO on several infrastructure projects.

Mr. President, the present bill, Senate Bill No. 2038, is actually an improvement of PD No. 1818 and definitely not a repudiation of what I have earlier said, as my good friend clearly stated. But this is really an effort to improve both the scope and the definition of the term "government projects" and to ensure that lower court judges obey and observe this prohibition on the issuance of TROs on infrastructure projects of the government.

Mr. President, PD No. 1818, it will be recalled, has been an

object of several circulars by the Supreme Court and has been sustained by a number of cases decided also by the Supreme Court. Yet, we see a spate of cases where lower court judges in spite of PD No. 1818, and in spite of several circulars and reminders by the Supreme Court, have nevertheless issued TROs.

This bill, Mr. President, if approved, will impose an administrative sanction against errant judges who will disregard the provision of this bill by a suspension of sixty (60) days.

So, Mr. President, no, I did not turn around as far as PD No. 1818 is concerned. This bill merely seeks, as I said, to improve what is lacking in PD No. 1818.

Senator Roco. I did not mean to have a negative inference from my question, Mr. President. But since the gentleman has not changed his mind in his counsel to then President Ramos that under existing laws, especially including not only PD No. 1818 but Presidential Decree No. 605, it was good enough for President Ramos, why does he suggest now that the existing law is not good enough for President Estrada? If it was good enough for President Ramos and he could get things done, why does the gentleman now say or suggest by inference, in filing this bill, that the existing law is not sufficient for President Estrada's desire to implement infrastructure programs?

Senator Cayetano. Mr. President, having invoked PD No. 1818 a number of times as presidential legal counsel to remind lower judges does not mean to say that this representation, when he was holding that position, was satisfied with the provisions of PD No. 1818. Now that I have this opportunity to improve the provisions of PD No. 1818 pursuant to several bills filed by six members of this august Body, I feel this is a great opportunity to review PD No. 1818 in order to improve both the scope and the definition to ensure that lower court judges implement the provisions on the prohibition of the issuances of TROs.

Senator Roco. Mr. President, in comparing the two bills, I notice that basic difference of the penalties. I take it that now judges can face penalty and can be imprisoned or fined. That is the improvement that our distinguished friend has found necessary to improve the system of law in this country. Now, we can badger and threaten to prosecute the judges.

Would this be a correct reading, Mr. President? Because in my comparison, that was the clear difference.

Senator Cayetano. Mr. President, the penalty being sought under this bill is merely a suspension for errant judges for 60 days without prejudice to any administrative, civil, or criminal liabilities he may also incur.

Mr. President, under the Penal Code, any judge who issues unjust interlocutory orders and also issues decisions is already punished under existing laws. Definitely, the judges are not exempt, if they violate existing laws, and might be subject to criminal prosecution. But I want to assure my esteemed friend that it does not have any criminal sanction as far as this bill is concerned. It is purely an administrative sanction of 60 days' suspension.

Senator Roco. But if there are penalties already being imposed on judges, then where is the improvement? There is an existing presidential decree that prevents the issuance of restraining orders, there is a penalty. Where then is the improvement? Because if there is no improvement and it is a reiteration of present laws, then maybe there is no need to act on this bill.

Senator Cayetano. Mr. President, I guess, it is a matter of opinion as far as that is concerned. Let me say that, as I said, the provisions in the Revised Penal Code under Title VII, Chapter II, from Articles 204 up to 207 impose criminal liabilities on the part of the judges. Therefore, it is not something new as far as members of the Judiciary being subjected to some kind of criminal liability are concerned.

But again, let me emphasize, and I hope my esteemed friend will not fault me for this, that this bill does not really impose any criminal liability but merely a suspension of 60 days precisely because there is no penal sanction in PD No. 1818. Despite several circulars being issued by the Supreme Court, we see a number of lower court judges issuing TROs.

So, we feel, Mr. President, with due respect to my good friend, that perhaps the best way to ensure that the intent of the legislative body will be observed by the lower court judges is if this bill is enacted into law.

Senator Roco. Just as a final question on this point, Mr. President. It is clear that this bill, in fact, adds a penal provision against judges. It may not be imprisonment. It may be suspension. It may be fines. It may be other administrative sanctions. But these administrative sanctions or suspensions or fines are in addition to what is already provided in the Penal Code. This is what our distinguished friend is recommending as an improvement in the present state of the law.

Senator Cayetano. It is only suspension, Mr. President. I would like to reemphasize that the penal sanction is only limited to suspension. It does not impose any fine, let alone any criminal liability.

If such an act would constitute a criminal liability, that will be up to the Supreme Court on whether or not to have this case brought to the Ombudsman. But as far as this bill is

concerned, it is limited merely to a 60-day suspension.

As I said, this is not just the improvement of PD No. 1818, Mr. President. It also involves the scope of what is covered by the term "infrastructure project."

Senator Roco. Yes, we will get to the nitty-gritty of the bill later on, Mr. President. I am just trying to put some perspective to my questions.

So I take it now, Mr. President, that the final answer of our distinguished friend is that, considering that this bill now imposes suspension and administrative sanctions on judges, this is the improvement which he now would commend to President Estrada as necessary which he was not able to do for President Ramos. He was unhappy that this was not in existence under President Ramos. Now he is trying to correct the situation so that President Estrada can have better leverage against the judiciary. Is this what we are being told?

Senator Cayetano. Not necessarily, Mr. President. I do not agree with that statement.

Senator Roco. What is necessary then?

Senator Cayetano. With due respect to the distinguished gentleman, I was not a member of this august Body until 1998. Therefore, I had no opportunity to certainly sponsor a bill like this. So it is not quite accurate that I am giving President Estrada this bill simply to ensure that the judges observe this under pain of being suspended if they do not. No, Mr. President.

Senator Roco. So I revisit my first question, Mr. President.

Why is it that that existing law was good enough under President Ramos but it is not good enough under President Estrada?

Senator Cayetano. Mr. President, as I said earlier, I did not say "it was good enough." I said, "I invoked it a number of times to remind judges about the prohibition," but I certainly did not say that it was good enough.

Senator Roco. Very good, Mr. President. May we now come then to the substantive issues of the bill.

May we ask our distinguished chairman of the Committee on Justice and Human Rights: For what reasons a temporary restraining order or preliminary injunctions or preliminary mandatory injunctions normally would support the issuance of such orders?

Senator Cayetano. Normally, under the provision on injunction, a preliminary injunction or TRO is issued upon petition by the applicant that there will be irreparable injury and grave injustice that may occur if no TRO or preliminary injunction is issued by the court while the case is pending. So, that is the normal, shall we say, underlying purpose of this bill.

Senator Roco. I take it that the distinguished gentleman is referring to Rule 58 of the Rules of Court.

Senator Cayetano. Yes, Mr. President.

Senator Roco. So that the normal *de cajon* reasons will be grave injustice and irreparable injury. Would this be correct? Among other things, there are procedural steps to be taken.

Senator Cayetano. Yes, Mr. President. That is basically one of the reasons but if the gentleman would like me to read Section 3 of Rule 58, I can do that. These are the grounds for preliminary injunction.

Senator Roco. No. I am perfectly happy, Mr. President, with the common reference to Section 58. It might, in fact, be Section 5. But regardless of whatever section and the grounds, it is grave injustice and irreparable injury. These are the red flags that fall for the exercise of equitable powers what the legal literature refers to as the shield that protects the weak, even, in fact, from government.

Now, if this is the reason for preliminary injunction, Mr. President, why do we want to deprive people of such a remedy if there is grave injustice or if there is irreparable injury? Why do we want to deprive the courts of such equitable powers? What is the reason behind the bill?

Senator Cayetano. Mr. President, this bill is in aid of the government which seeks to undertake or implement government projects which, for some reason or another, has been opposed or objected to by some individuals. Therefore, as far as the government is concerned, when it comes to these government infrastructure projects, especially those that are internationally funded, the feeling is that this is a very important undertaking by the government. And if it drags on in the lower courts because of the issuance of the TRO or preliminary injunction, then the government will suffer what we call irreparable injury in terms of both costs and opportunity to serve the larger public.

Really, Mr. President, this is intended in favor of the government; not of a particular individual.

Senator Roco. So, Mr. President, the Committee on Justice and Human Rights is saying that it has put a balance—

grave injustice, irreparable injury on one hand as against government projects or infrastructure projects—and it has found that government infrastructure projects are superior priorities. Never mind if there will be grave injustice; never mind if there will be irreparable injury. The government infrastructure program cannot be stopped. Is this the recommendation in terms of policy priorities that we are hearing from the Committee on Justice and Human Rights?

Senator Cayetano. No, Mr. President. That statement is the statement of the gentleman from Naga, Camarines Sur. Second, the intent of this bill is not to remedy what we might call an injustice that may be heaped or may be suffered by an individual. After all, we are talking here of what we call in constitutional law as the principle of eminent domain which authorizes the State to take private property for public use, for as long as just compensation is concerned.

So, between a situation where the government is undertaking a governmental infrastructure project and an individual whose land may be taken by the government through expropriation, this situation may be aborted by the court through the issuance of a TRO.

So in a situation like this, Mr. President, this bill, like PD No. 1818, interposes a prohibition that the court cannot issue a TRO because, as I said, this issuance of TRO delays, in most cases, the infrastructure project. So that is the rationale behind this, not because an individual will suffer an irreparable injury. Yes, in some reason, he may suffer. But in a situation like this, the Constitution allows the government to take private land from private individual for as long as it is for public use and just compensation is paid.

Senator Roco. But when I was reading the bill, Mr. President, I thought that the prohibition against the issuance of a restraining order applied even if there was no eminent domain exercise. In other words, if there is an infrastructure program, in fact, if it is a build and operate, a BOT program undertaken by a private project implementor, this bill prevents a restraining order or a temporary restraining order or a preliminary injunction. So we must not mix. We can get later on to the eminent domain problem and the problems of expropriation but I am just asking right now what is the priority value being suggested to us. Because as against preventing grave injustice, we are saying, "Favor government infrastructure." In fact, the bill says favor even private contractors as long as they are implementing government infrastructure project. In the first instance that I am discussing, we are not asking the gentleman or we are not yet taking issue with eminent domain aspect. All we are saying is: What is the constitutional basis? What is the philosophy behind saying, "Never mind grave injustice,

never mind irreparable injury, as long as my road is built." What is the reason in the Philippine Constitution that the distinguished chairman may recommend to us?

Senator Cayetano. Mr. President, certainly if that is the statement, I will agree with that. Because no one can say, regardless of what one will suffer as an irreparable damage, "This is my road and I will take it." Of course, that is illegal. That is unconstitutional. This is not what is being envisioned by this bill. But if that were the situation, I will agree with my good friend from Camarines Sur that certainly, the court can step in and issue TRO or preliminary injunction. But here, it is something else.

SUSPENSION OF SESSION

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

It was 4:43 p.m.

RESUMPTION OF SESSION

At 4:52 p.m., the session was resumed.

The President. The session is resumed. Senator Roco is recognized.

Senator Roco. Mr. President, I was at the point of asking and maybe, even suggesting a constitutional basis for what I perceive to be the philosophical thrust of our distinguished colleague.

I understood from him during the break that, of course, he would not countenance irreparable injury or grave injustice. This obviously has no place in our lawmaking efforts. Nonetheless, we have to give a justification in constitutional law.

May we suggest—and I am not arguing for this, Mr. President—that the committee consider Article XII, Section 6. I will read it while the staff is looking for it. Article XII, Section 6, says:

The use of property bears a social function, and all economic agents shall contribute to the common good.

In other words, the legislative standard and the constitutional standard that the bill will therefore stand on, in addition to the other justifications of our distinguished colleague, is that under the 1987 Constitution, it is recognized that property has a social function. And the social function, therefore, demands for the good of the community under certain conditions which must be clearly defined under the bill. There can

be an intrusion of law even into such right as property rights because it is already in the Constitution—the social function of property.

I am recommending this only if it can find acceptance in the juridical structure that our distinguished Committee on Justice and Human Rights chairman has put together in this bill.

Senator Cayetano. Yes, Mr. President. I take that suggestion. In crafting an amendment of the committee, for sure, such provision of the Constitution as read by our esteemed friend from Naga, Camarines Sur is well-taken and certainly we will take that into consideration.

Senator Roco. I do not mind this, Mr. President, but my constituents in Naga City may feel slighted a little when the distinguished gentleman says "Naga, Camarines Sur" because it transforms us into a municipality.

Naga City, Mr. President, according to *Asia Week*, is the city with the second-best quality of life in the whole country today next only to Davao. So if my distinguished friend will not mind, if he should use "Naga," the appropriate description as a city will be appreciated just by way of defending my constituents.

Senator Cayetano. I stand corrected. It will be "Naga City," Mr. President.

Senator Roco. Yes, Mr. President. Thank you.

Now, Mr. President, the second juridical norm that our distinguished friend has mentioned is that this bill favors, of course, the executive department. So that in the constitutional balance between the Judiciary and the Executive, this bill now proposes and we as legislators are saying, "Let us now favor the executive department as against the Judiciary."

This is my second area of concern, Mr. President. Why do we want to do that when the power of the sword is with the executive department; the power to implement and the resources of government is with the executive department; and the Judiciary has nothing but the power of the pen and we shall break that pen? Why? What is the reason we will give the law students and what is the reason we will give our constituents? We have broken the pen of the Judiciary. What is the reason?

Senator Cayetano. Mr. President, this committee chair will not break the mighty pen of the Judiciary.

But let me recall, Mr. President, for the record, that no less

than the Supreme Court has recognized both by its issuance of several circulars and decisions that PD No. 1818 is not an intrusion, let alone a favor to the executive department of the government. The Supreme Court has recognized that PD No. 1818 is an appropriate legislative exercise of its lawmaking power.

For the same reason, Mr. President, I believe that Senate Bill No. 2038 will not in any way intrude into the domain of the Supreme Court as it has not, as I said, as far as PD No. 1818 is concerned. The Supreme Court has accepted the validity, legality and constitutionality of PD No. 1818 which again, to repeat myself, prohibits lower courts from issuing TROs, except the Supreme Court.

I would like to emphasize because I have not said this before, Mr. President, that in this bill, the Supreme Court is not prohibited from issuing TRO or preliminary injunction. It is only limited to the lower courts. So I beg to disagree with the statement of my good friend that this bill will favor the executive department to the detriment of the Judiciary and the Supreme Court.

Senator Roco. Our distinguished friend, Mr. President, refers to circulars from the Supreme Court. Is he referring to Circular No. 07-99 of June 25, 1999, the most recent? Is this one of the circulars he is referring to?

Senator Cayetano. Yes, among others, Mr. President.

Senator Roco. Among others, yes. May we just concentrate on that? We will go to the other circulars.

Senator Cayetano. Yes, Mr. President.

Senator Roco. But this circular, Mr. President, only says, "Exercise utmost caution, prudence and judiciousness in the issuance of temporary restraining orders and writs of preliminary injunctions." It does not, in fact, say, "Do not issue." It says, "Exercise utmost caution." In fact, it allows. It only requires the lower courts to exercise—which are expected of them in any event—utmost caution and prudence. So this does not support the statement of our distinguished friend that the Supreme Court has therefore surrendered and has allowed that the lower courts may not issue restraining orders. The circular says that the lower courts may issue, but do so with utmost caution.

Senator Cayetano. Mr. President, let me recall to the gentleman the latest case of *Garcia vs. Burgos*, 291, SCRA 546, 1998, where the Supreme Court struck down the TRO issued by an RTC in Cebu City on the basis of PD No. 1818.

Senator Roco. Yes, we are familiar with it, Mr. President. It is a 1998 case.

But as far as the circular is concerned—because our distinguished friend mentioned circulars—this Circular No. 07-99 does not surrender Supreme Court powers as far as the lower courts are concerned. In fact, it says, "Go ahead, but exercise utmost caution."

I do not know if I have complete copies—but as far as what has been furnished me by the staff dated March 5, 1993, again, what does it say? The circular is addressed to the judges, but it recognizes the ability of the judges to issue restraining orders. In fact, the last portion of that circular says that "the courts are directed to immediately furnish this office copies of any restraining order." So they may. The Supreme Court is only saying that they care, study their homeworks, and prepare their lessons well. But they may.

So the Supreme Court has never yielded, Mr. President, to the lower courts the ability to issue restraining orders, unless our distinguished friend can show me now a circular that says differently.

Senator Cayetano. I agree, Mr. President, about the wording of these several circulars. But, as I said, I mentioned that merely to emphasize that the Supreme Court has recognized the validity of PD No. 1818.

Again, let me invoke the case of *Garcia vs. Burgos* which I think strikes right in the heart of what is the meaning of PD No. 1818 and also what is the impact or enforceability of PD No. 1818 as far as the lower court is concerned.

Let me read into the *Record* the decision of the court and this is on page 571:

Section 1 of PD 1818 distinctly provides that no court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case, dispute or controversy involving infrastructure project of the government to prohibit any person or persons, entity or government official from proceeding with or continuing the execution or implementation of any such project or pursuing any lawful activity necessary for such execution, implementation or operation.

And this is what the Supreme Court said:

At the risk of being repetitious, we stress that the foregoing statutory provision expressly deprives court

of jurisdiction to issue injunctive writs against the implementation or execution of an infrastructure project.

There can be no clearer statement from the Supreme Court that as far as the lower courts are concerned, they are prohibited from issuing TRO on matters involving infrastructure projects, Mr. President. [*Garcia vs. Burgos*, SCRA 291]

Senator Roco. Yes. I have the citation, Mr. President.

Senator Cayetano. Yes, Mr. President.

Senator Roco. May the distinguished gentleman then explain why the title of the memo circular or the administrative circular of the Supreme Court in its subject says: "Re: Exercise of utmost caution, prudence and judiciousness in issuance of temporary restraining orders and breach of preliminary injunction"?

Senator Cayetano. Mr. President, I am not the Chief Justice of the Philippines. This was issued by the Chief Justice of the Philippines so I cannot explain.

But the case of *Garcia vs. Burgos*, Mr. President, as we know, is a precedent. The decision of the court, as I read, is clear and equivocal. That the lower court cannot issue any injunction to prohibit the implementation and execution of an infrastructure project. Any other circular, with due respect to my good friend, is, well, a circular. But this is *en banc* decision by no less than the Supreme Court itself, Mr. President.

Senator Roco. Mr. President, the only reason I looked at the circular is that the distinguished gentleman mentioned the circular so I started looking at it. And if he cannot explain the circulars of the Supreme Court, I wonder where he gets the qualification to explain the cases cited in the circular.

Senator Cayetano. Because I have the full case; I have the decision itself, and I read into the *Record* the decision of the Supreme Court. I can explain it. It is a very simple language and I can read again the decision of the Supreme Court if the distinguished gentleman wishes, Mr. President.

Senator Roco. Mr. President, we will not get into that, but let us examine even the reasoning of the Supreme Court, if we must. After all, we are an independent coequal branch. Let us therefore look at the reasoning of the Supreme Court.

Mr. President, may I ask our distinguished colleague: Wherein lies judicial power?

Senator Cayetano. May I ask that the question be repeated, Mr. President.

Senator Roco. Yes, Mr. President. Where is judicial power vested?

Senator Cayetano. Where is judicial power vested? It is vested in the Supreme Court and in the other lower courts created by law, Mr. President.

Senator Roco. And this is as of 1987.

Senator Cayetano. Which one?

Senator Roco. This is the 1987 Constitution, Mr. President. Is this correct?

Senator Cayetano. That is right, Mr. President.

Senator Roco. That is correct. That is Section 1, Article VIII.

As of 1987, what were the lower courts established by law?

Senator Cayetano. Does the gentleman mean beginning or before?

Senator Roco. As of the promulgation of the Constitution in 1987. It was on February 14 I think or February 2, depending on which version we take. What were the lower courts existing created by law?

Senator Cayetano. If I recall, Mr. President, of course, we have the Court of Appeals; we have the RTC.

Senator Roco. The Regional Trial Court.

Senator Cayetano. We have the Municipal Trial Court, the Metropolitan Trial Court, the Shari'a court.

Senator Roco. It is clear then, Mr. President, that judicial power is not vested merely in the Supreme Court but also in the lower courts as created by law.

Senator Cayetano. Yes, Mr. President.

Senator Roco. When we restrict the issuance of interlocutory or incidental or ancillary remedies purely in the Supreme Court, are we not depriving therefore the rest of the lower courts established by law of these powers since Section 1, Article VIII specifically vests judicial power not just in the Supreme Court? It could have said, "It is vested in the Supreme Court." But the Constitution of 1987 says "vested in the Supreme Court and such lower courts as may be established by law" and these have been enumerated already by the distinguished gentleman.

So, if we consider that, Mr. President, the Supreme Court itself could be wrong and that is the value of being in the legislature. The Supreme Court itself could have misread and could have failed. If the interpretation of the distinguished gentleman is correct, then the Supreme Court may have been remiss in its duty to uphold judicial powers which are vested not only in the Supreme Court but in the lower courts as may be established by law.

The question then, Mr. President, considering the very vigorous answer of our distinguished chairman of the Committee on Justice is: May the Supreme Court tell a lower court how exactly to rule on what is fair and what is just and how they should perceive questions of fact by circular or even by decision? Is that the extent of *stare decisis* that our distinguished colleague is proposing to this honorable Chamber?

Senator Cayetano. Mr. President, first of all, we know for a fact that the legislative body may define the jurisdiction and powers of the lower courts. PD No. 1818, in fact, did limit the jurisdiction of the lower courts. And certainly, in the same vein, Senate Bill No. 2038 also seeks to limit the jurisdiction of the lower courts as far as the issuance of TRO on certain infrastructure projects is concerned.

Now, Mr. President, as far as the lower courts are concerned, we know very well that the Supreme Court has supervision over the lower courts in the implementation of their respective jurisdictions. It has the power of both review in proper cases, and it has the power of disciplinary matter as far as errant lower court judges are concerned.

So we may say, Mr. President, that the Supreme Court has not really in any way dictated without reason or abdicated its power without reason as far as the lower courts are concerned. There are certain considerations, both constitutional and legal, as far as these are concerned.

Senator Roco. I will take that for now, but still it does not answer my original question.

Since judicial power, Mr. President, is the duty of the courts of justice, and I am citing from the second paragraph of Article VIII of the Constitution, "to settle actual controversies," and considering that the judicial power is vested both in the Supreme Court and in the lower courts established by law, this is my question: May the Supreme Court tell a lower court how to exercise its discretion in a pending case?

Senator Cayetano. No, Mr. President, it may not. I think the gentleman knows that very well. I do not know why he is asking this representation this question, but I will allow him

that latitude to ask me some of these questions if he is trying to find out if I know a little about civil procedure.

Senator Roco. No, Mr. President, I am not even on civil procedure. I am just citing Article VIII on the Judiciary in the Constitution. That is all. They are very basic precepts only because the way the distinguished gentleman is explaining the circulars, it is as though the Supreme Court circulars and the Supreme Court decisions can therefore dictate to a lower court how it should exercise discretion. And as the distinguished gentleman now admits, of course, that is not so. *Stare decisis* may only apply to the same parties and under the same litigated situation.

But in this particular case, Mr. President, the way I read the circulars of the Supreme Court—and although I am not the Supreme Court Chief Justice, I can interpret them because I also read English and I can understand a little of what they say—it, in fact, has been conscious in ensuring that the lower courts, with which it shares judicial power, are amply protected even in the circulars. It is being read now, to denigrate and erode judicial power or the power to exercise discretion and that is what I am saying. It may be difficult to share as a proposition of law or as a proposition of policy. That is the point I was hoping to make. Maybe I was not all that clear.

Senator Cayetano. Mr. President, the legislative body shares the same power as far as providing the provisions of the *Rules of Court*, as well as providing the power or definition, prescription of the lower courts' jurisdiction is concerned. I think it is in this light that the Supreme Court has issued several circulars merely in obedience to a presidential decree which is a legislative enactment.

Senator Roco. Yes, Mr. President. So, it only says that, "Lower courts take heed; be careful in issuing restraining orders." It does not say, "Do not."

Mr. President, I will call attention, because I think the bill correctly tries to define a "deprivation of jurisdiction." Because as we know, as propagated by Michigan law, "Jurisdiction only occurs when vested by law."

That is why the bill, Mr. President, I think, can be justified as precisely a redefinition of jurisdiction. If there is no jurisdiction, then there can be no issuance or no power emanating from that jurisdiction. That actually, I was hoping, would be the appropriate answer, but I am being led into some other fact.

Senator Cayetano. But, Mr. President, I thought I already answered that by saying that the legislative body may define and prescribe the powers and jurisdiction of the lower court.

If I did not, then I wish to beg the indulgence of our good colleague. But I did say that. I think the record will reflect that I mentioned that.

Senator Roco. In any event, Mr. President, I will now put to question why we should deprive the lower courts, since the judicial power is vested in the Supreme Court and all the courts and the lower courts as established by law. I now question or I now put in issue: Why? What is the reason for depriving them of jurisdiction to intervene when there is grave injustice? I go back again to that fundamental issue, because that is what we must explain.

Senator Cayetano. Mr. President, let me try to guess the mind of our esteemed friend.

When there is great injustice, I see a situation not contemplated by this bill. I see a situation earlier relayed to me by the Minority Leader during the suspension of the session that we may have a citizen out there in the boondocks, have his property taken by a government agency just like that without seeking judicial action on it, let alone pay for it. That, of course, is a great injustice and certainly an irreparable injury.

In a case like that, Mr. President, this bill does not contemplate that. Certainly, I will be the first to ask the court to issue a TRO against that kind of activity or situation.

If that is the one envisioned by our esteemed friend, I agree with him. When there is great injustice or irreparable damage in a situation I illustrated, this bill does not apply.

Senator Roco. I am glad to hear that, Mr. President. Then it becomes easier to work around the objectives of the bill as articulated.

Mr. President, may we now come to the nitty-gritty of the bill. Again, by way of trying to be helpful—and I am trying to be helpful—I beg the indulgence of our distinguished friend for engaging in legal points. I can only do it with somebody who is a Doctor of Laws. And so I beg his indulgence. I cannot do it with those who are not Doctors of Laws.

Senator Cayetano. Again, Mr. President, I get this compliment with left-handed...

Senator Roco. No, it is in all candor, Mr. President. We have many bills that are, for instance, not so much legal in nature as an effort to define a program. And so the fine legal points cannot be debated. Because how do we debate when we are talking about a program?

Senator Cayetano. But, Mr. President, for the record,

I appreciate the assistance. And I mean that in all sincerity that the clarificatory questions are being asked.

Senator Roco. Now, let me get to the nitty-gritty of the bill, Mr. President.

During the suspension of the session, the distinguished chairman said that he would break this report into two. I would have suggested that the report be broken up into two, or maybe, even three. But I will leave this to the superior judgment of the committee. One is on the question of jurisdiction over the issuance of restraining orders; and the other is on the exercise of the power of eminent domain. If that is acceptable, I would then ask the indulgence of our distinguished friend to just concentrate for now on the injunction.

Senator Cayetano. Yes, Mr. President. In fact, this was brought up earlier, and as I promised my esteemed friend from Naga City, Camarines Sur, I certainly will consider that point.

Senator Roco. Now that we are just focused on preliminary injunction, the issue really becomes this: Is it the law or the implementation that is defective? I mean, if we have an effective president served by our distinguished friend, for instance, who could implement and carry through projects, obviously, historically, there is no need for this bill. In fact, a lot of infrastructure could be seen as a result of the 1992-1998 Ramos administration, of which our distinguished friend was a part, regardless of his own view of the inadequacies of the law. The implementator and the executive secretary sits as Senate President now, or the secretary of justice, and the executive secretary is walking in. If there is an appropriate implementing or follow through mechanism, maybe the law is sufficient.

Senator Cayetano. Mr. President, I find the law rather insufficient. Let me give as an example the insufficiency of the law in the case of *Garcia vs. Burgos* that I mentioned earlier. The lower court interpreted the term "government infrastructure project" as not referring to reclamation of foreshore lands. The Supreme Court corrected the lower court and said that it is included. So now, as we prepare the committee amendment later on, we certainly will include here reclamation of foreshore lands.

In that example alone, PD No. 1818 is vague. Therefore, we cannot fault the lower court from issuing a TRO simply because the law is vague. And as interpreted by the court, it covers even reclamation of foreshore lands. That is just an example, Mr. President.

Senator Roco. But the bill, Mr. President, has expanded—even the case of *Garcia vs. Burgos*—the prohibition. Because

Section 3, the last line, speaks of government infrastructure project referring to all projects covered by the Build-Operate-Transfer Law, Republic Act No. 7718.

May we ask the distinguished gentleman what Republic Act No. 7718 includes? Is it not so that it includes private sector infrastructure or development projects? Is it not a fact that it includes build-operate-transfer projects by private entities? Is it not a fact that it includes build and transfer; build, own and operate; build, lease, and transfer; build, transfer, and operate; contract, add, and operate; develop, operate, and transfer, even when the project proponent is a private sector entity? And that is what the bill is saying. It includes all the projects of the BOT Law.

Under such an unparalleled grant to the executive department, where will the Judiciary lie? How may it protect individual rights?

Senator Cayetano. The gentleman is correct in the enumeration of the several modes of what we call Build-Operate-Transfer Law under Republic Act No. 7718. I recognize the gentleman's statement as clearly correct that this bill basically considers the role of the private sector in these areas.

As far as the government is concerned, Mr. President, because of lack of funds, in order to build infrastructure like airport, bridges, roads, et cetera, we may have to work or allow private sectors to undertake these projects on behalf of the government. While they may be doing that as the sole contractor, providing both technical and financial needs of the project, nevertheless at the end of the day these are all for the government.

Therefore, this is the reason for the conclusion in the bill of the build-and-transfer projects under Republic Act No. 7718. In fact, I do recall that quite a number of projects under RA No. 7718 have been subject to TROs, one of which is, of course, the MRT, the one that is now running in the middle of EDSA, which was supposed to have been implemented a long time ago, sometime in 1993 or 1994. Because of the issuance of the TRO, it was delayed; hence, the cost expanded to about three times more. And a number of other cases under RA No. 7718 or the law that was amended. So that is the reason for the inclusion of these projects.

Senator Roco. What would be the legislative standards to be followed in avoiding the issuance of the restraining orders when it comes to projects empowered by the BOT law, Mr. President?

Senator Cayetano. Basically, we are looking at the elements of bidding and award of these projects as the activities

that may be subject of temporary restraining order or preliminary injunctions which this bill seeks to prohibit as far as these are concerned.

With the permission of my esteemed friend, many times over, a losing bidder would question the legality or regularity of the bidding or the award. In a number of cases, the court has stepped in to stop the grant of the award because of the complaint of the aggrieved party. So, in a situation like this, this bill will prohibit the lower courts from issuing TRO and preliminary injunctions. Of course, they can always go to the Supreme Court without doubt about it because the Supreme Court is certainly beyond the scope of this bill.

Senator Roco. We will go to that point, Mr. President, as regards the Supreme Court and the practicability of precisely making this bill into law. But does it mean that a project proponent, as defined by the BOT law, in his bidding, will therefore now enjoy being protected against temporary restraining orders? Even if there is an injustice, they are now protected from temporary restraining orders from the regular courts.

Senator Cayetano. Under this bill, Mr. President, the remedy will lie with the Office of the President. If an aggrieved party believes that the bidding or the award has been tainted by irregularity or illegality, the only remedy is...he can always go to court, by the way, but, of course, the lower courts are prohibited from issuing TRO.

But it is envisioned in this Senate bill that the aggrieved party should go to the Office of the President and allow the President to review whether, in fact, the complaint of the aggrieved party is correct or not. If so, then the President may order a rebidding or a nullification of the awards. Of course, subject always to a review by the Supreme Court.

Senator Roco. When we read this bill and the BOT law together, we find that a private sector entity, by definition of the BOT law, shall have contractual responsibility for the project and shall have adequate financial days to implement said project consisting of equity and firm commitments from reputable financial institutions to provide, upon awards, sufficient credit lines to cover the total estimated cost of the project. A private entity, as long as it has money-power, and that money-power may emanate from connections or crony capitalism, shall be protected against intrusions at least of a temporary-restraining-order nature.

Will this be correct, Mr. President?

Senator Cayetano. To the extent that a person or an entity will satisfy the requirement of the projects as envisioned by

the government. Because in this case of BOT, while this is purely a private initiative, nevertheless this is for government purposes and, therefore, it is the government that sets the standard as far as the qualification, the technical, and the financial aspects are concerned.

So, if any individual or any entity will qualify with technical and financial capabilities, yes, it is possible that to an aggrieved party who does not agree with the decision of the PBAC or the Committee on Privatization, or whatever agency that is involved, the Department of Public Works, et cetera, the courts cannot issue a TRO. But, as I said, there is still a remedy that lies in store for him, if he wants to. And that is going to the Office of the President or going to the Supreme Court where the court may eventually issue a TRO.

Senator Roco. Yes, but that is only as far as the ancillary or this incidental order is concerned. But there are other remedies available which brings me now to the practicability aspect of this bill.

The constant answer of our distinguished chairman is that one can always go to the Supreme Court. May we know if the gentleman has inquired from the Supreme Court on how it views this proposed bill?

Senator Cayetano. Mr. President, I do recall that we held a public hearing on this and we invited the Office of the Court Administrator to represent the Supreme Court. Unfortunately, the Court Administrator did not show up. In that sense, we did not get...

Senator Roco. So, we do not have the data available as to the number of cases pending in the Supreme Court.

Senator Cayetano. Pardon, Mr. President?

Senator Roco. How many cases would now be pending in the Supreme Court?

Senator Cayetano. With respect to what, Mr. President?

Senator Roco. The total backlog, the total case load of the Supreme Court today, would we have any familiarity? It used to be half-a-million load cases, but maybe it has increased or maybe it has...

Senator Cayetano. No, Mr. President. Not in the Supreme Court. The total backlog of cases as of...

Senator Roco. Do we have any idea as to the total case load of the Supreme Court? It used to be half-a-million load cases.

Senator Cayetano. Half-a-million?

Senator Roco. Yes, it used to be half-a-million load cases. It is an amazing number because there are millions of cases before the lower courts. In the Supreme Court, the *certiorari* alone, at a certain point in time—and I cannot now remember—was 200,000.

Senator Cayetano. What the Court Administrator furnished me earlier in a public hearing in connection with the retirement and pension benefits is the totality of pending cases from the lower courts to the Supreme Court which is about 800,000 as of last month. So I am not quite sure and this is just purely a "guesstimate," Mr. President, that there are pending cases in the Supreme Court totalling to about 500,000. I doubt that. But again, I would like to say to our esteemed friend, this is purely a guess estimate. If I recall now because most of these 800,000 plus cases are pending in the lower courts—RTC and municipal courts—these are mostly on bouncing checks laws.

Senator Roco. Which the Supreme Court has been discouraging and these small cases have been referring to the Court of Appeals as much as possible when there are issues of fact. And one of the constant refrains was precisely to give reflection time to the Supreme Court so that it is not burdened by so many of these myriad of small cases which can be appropriately treated in the Court of Appeals.

But with this bill, Mr. President, when do we get a restraining order? The poor farmer in Pili, Camarines Sur, who has one hectare given under the Agrarian Reform law, two-thirds of which will now be lost because of a road, and may now be taken because of this bill, and then he will have to go to the Supreme Court. Will this not compound the so-called delay in judicial administration by overburdening the Supreme Court? Why should we make the Supreme Court worry about restraining orders involving the building of a road in Pagao, Bonbon, Camarines Sur? We do not even know where it is. They do not even know where Pagao is.

Senator Cayetano. That is right, Mr. President. I certainly do not know it. But I would like to be there in the company of my good friend.

Senator Roco. Yes, these places have much shrimps and *alimango*.

Senator Cayetano. Yes, Mr. President, I do realize that dilemma. I am not oblivious to that. But again, let me say that the Constitution, I may be repeating myself like a broken record, thus allow the taking of property—if the gentleman is

talking about it—a private property by the government for as long as it is for public use and with just compensation. I do realize that it might be very difficult and even probably traumatic on the part of a poor farmer from the boondock that the only piece of land where his forebears and his family now live may be taken through expropriation.

But this is the way it is, Mr. President. If that piece of land runs smack into a projected airport or bridge or roads, and as long as the requirements of public use and just compensation are there, we really cannot do anything about it.

Senator Roco. We can, Mr. President, by providing so in the law. But I am not yet there. What I am asking is: Why do we want to burden the Supreme Court with petitions for temporary restraining order?

Senator Cayetano. Because we cannot prevent the Supreme Court from issuing TROs or preliminary injunctions. We are just saying that at the end of the day, any litigant for that matter, no matter how poor or influential may always go to the Supreme Court for final remedy as far as his complaint is concerned. That is all what it says, Mr. President.

Senator Roco. But precisely, one of the major objectives or policy goals of the Constitution, to which we all strive, is a speedy dispensation of justice.

When our distinguished friend and I were together in the Integrated Bar, Mr. President—we served together in the Board; he was chairman of the House of Delegates—one of the conclusions we reached as early as 1981 to 1983 was, precisely, to lessen the burdens that the Supreme Court is carrying unnecessarily. There are appeals even on ejectment, there are the bouncing-check laws, and by overburdening the Supreme Court, we, therefore, handicap the speedy disposition of justice.

And now, we craft a bill which will further overburden the Supreme Court. So, while we might have efficient judicial system—and I can imagine how it can help the speedy implementation of projects—we will, on the other hand, have a slower process of the judicial mechanism. Because we cannot prevent the lawyers from going to the Supreme Court and asking for temporary restraining orders if they feel that there is grave injustice committed.

Now, what policy reason do we give our country for burdening the Supreme Court with such a myriad minutiae?

Senator Cayetano. My answer to that, Mr. President, is that we would like our countrymen, who may feel aggrieved in the exercise of government, for instance, of its eminent domain

power, to know that there is a Supreme Court that they can look up to in order to redress whatever grievances they may feel, for which remedies were not available in the lower court.

Because at the end of the day, Mr. President, again, even if we allow the lower court to issue a TRO, it will reach the Supreme Court anyway. As my good friend says, lawyers will not stop until that matter reaches the Supreme Court. So, whether we have this law or not, the grant of a TRO... in fact that is what had happened in the case of *Garcia vs. Burgos*. The RTC in Cebu City granted a TRO, the government made all the way to the Supreme Court.

So either way, whether or not we prohibit the lower court from issuing a TRO, some of these cases will really reach the Supreme Court.

Senator Roco. Does the distinguished chairman dispute that if this bill is approved, there will be more cases asking for a restraining order from the Supreme Court?

Senator Cayetano. Yes, I think so, Mr. President, there will be.

Senator Roco. And so what is the reason we want to burden it with all these petitions for temporary restraining order? These will end up with it anyway.

Senator Cayetano. As I said, Mr. President, we do not want to deprive any aggrieved party from going to the Supreme Court. Now, whether the Supreme Court will issue a TRO is one thing. Simply because he goes to the Supreme Court does not mean that he will get a TRO.

Senator Roco. Yes, Mr. President, it just becomes worse. More and more petitions will be filed and the Supreme Court will be overburdened. And this is one of my important points because not only do we strengthen government now, not only do we concentrate government power in the Executive but we weaken the Supreme Court and on top of that, we burden it with more cases on ancillary or interlocutory or incidental requests for temporary restraining orders. It is almost upward delegation which is not efficient.

Mr. President, may I go to another point. This concern for stopping restraining orders may be giving the wrong solution to the correct problem. Because how can we prevent the lower courts from receiving petitions questioning as abuse of discretion the act of the Public Works or the act of the Department of Energy? *Certiorari* powers are inherent in all the courts. And if we remove this restraining order, fine, the lawyer will just file petition for *certiorari* to declare void the abuse, or the

exercise of power which gravely abused discretion of the Department of Public Works. Therefore, the threat of judicial intervention or judicial voidance of the pending project will still impede and delay. In other words, even if we take away the jurisdiction of the lower courts to issue temporary restraining orders, the special equitable powers of the courts—prohibition, *mandamus*, *certiorari*—will remain and they will always threaten the abusive exercise of government agencies even if there is no restraining order.

So, approving this bill into law just concentrates power in the Executive, handicaps the Supreme Court with more work, but does not solve any problem. So why should we approve this bill, Mr. President?

Senator Cayetano. Mr. President, what I heard was something like a vote of no rather than a clarificatory question. I certainly do not disagree that there could be an equitable remedy filed in the lower courts, but it will not stop the implementation or execution of infrastructure projects.

That is the only difference. While any litigant with a counsel who is creative enough goes around and seek *certiorari* or prohibition or *mandamus*, without a TRO, nevertheless, Mr. President, the project continues. That is what is being sought in this bill to precisely not deprive any litigant of any legal remedy—judicial and otherwise—but rather not to stop the implementation of this infrastructure project while it is being litigated. That is all—plain and simple—as far as this bill is concerned.

Senator Roco. Thank you, Mr. President. Before closing, may we just request the committee—because it is easy for the committee—to get the statistics on the case load of the Supreme Court and the Court of Appeals so that we may consider these in the period of amendments.

We truly appreciate the assurance, Mr. President, that we will split this bill so that we may discuss the issues of restraining orders separately from the power of eminent domain.

We also wish to thank our distinguished friend, Mr. President, for the patience and sometimes for entertaining some of my unrestrained—I do not know what to say—enthusiasm in asking questions. Thank you very much for the time and thank you for the answers.

Senator Cayetano. I would like to thank my esteemed friend likewise, Mr. President. I do appreciate everything that he said, and some of the suggestions that he had made both in the interpellations and during the break period will certainly be considered.

We will also inquire from the Supreme Court the statistics that our esteemed friend seeks to have.

Senator Roco. Thank you, Mr. President.

Senator Cayetano. Thank you, Mr. President.

Senator Sotto. Mr. President, with that, I move that we suspend consideration of Senate Bill No. 2038.

The President. May the Chair know if there are still other colleagues who wish to avail themselves of the period of interpellations?

Senator Sotto. Yes, Mr. President. As an offshoot of the discussion earlier between Senators Cayetano and Roco, the Minority Leader has expressed his wish to continue interpellation on the bill.

SUSPENSION OF SESSION

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

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 5:49 p.m.

RESUMPTION OF SESSION

At 5:50 p.m., the session was resumed.

The President. The session is resumed. The Minority Leader is recognized.

Senator Guingona. Thank you, Mr. President.

Mr. President, we will go to the period of amendments. I just would like to ask: Did the distinguished sponsor already agree to separate the cases where there is no initiative or court action on the part of the government, for example, in infrastructure projects? In other words, if the procedure is not followed, then he agrees that in those cases which would result in grave prejudice and injustice, TROs can still be made available.

Senator Cayetano. Yes. During the break, Mr. President, my Minority Leader—I would like to emphasize “my Minority Leader”—brought home a point. And just to give a background in order to clarify answers which I will give, he cites a situation where someone out there, a farmer or a citizen in Mindanao has a piece of land and suddenly a government

agency seized it and used it for public purpose. I told the gentleman that that certainly is not covered by this bill because this bill requires that if there is no donation, there is no negotiated sale or any amicable settlement, then he has to go to court. In the absence of that, or in a situation where he has not gone to court for expropriation proceeding, then, of course, it is an unlawful act and therefore we will ensure that that is provided for in this bill.

Senator Guingona. I would like to thank the gentleman for that answer. I will craft the proper proposed amendments, Mr. President.

With that, I will terminate my interpellation. Thank you.

Senator Sotto. Mr. President, with that, I withdraw my first motion to suspend consideration of Senate Bill No. 2038 and instead move that the period of interpellations be closed.

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

SUSPENSION OF CONSIDERATION OF S. NO. 2038

Senator Sotto. Mr. President, I move that we suspend consideration of Senate Bill No. 2038.

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

MOTION OF SENATOR SOTTO (Referral of S. No. 823 to the Public Order and Illegal Drugs Committee as the Primary Committee and the Justice and Human Rights Committee as the Secondary Committee)

Senator Sotto. Mr. President, earlier, Proposed Senate Resolution No. 823 was referred to the Committee on Justice and Human Rights. With the concurrence of the chairman of the Committee on Justice and Human Rights and the chairman of the Committee on Public Order and Illegal Drugs, I move that this be referred to the Committee on Public Order and Illegal Drugs as a primary committee and the Committee on Justice and Human Rights as a secondary committee.

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

Senator Sotto. With that, Mr. President, I move that the session be adjourned until Monday, August 7, 2000, at three o'clock in the afternoon.

The President. With the permission of the Chamber, there is an Additional Reference of Business.

Senator Sotto. I withdraw my motion, Mr. President.

The President. The Secretary is directed to read the Second Additional Reference of Business.

SECOND ADDITIONAL REFERENCE OF BUSINESS

BILL ON FIRST READING

The Secretary. Senate Bill No. 2107, entitled

AN ACT INTRODUCING EDUCATIONAL REFORMS
AND SUPPORTING THE PLANNING AND
IMPLEMENTATION OF EDUCATIONAL
REFORMS IN SECONDARY INSTITUTIONS

Introduced by Senator Defensor Santiago

The President. Referred to the Committees on Education, Arts and Culture; and Finance

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 827, entitled

RESOLUTION DIRECTING THE COMMITTEE ON
HEALTH AND DEMOGRAPHY TO INQUIRE, IN
AID OF LEGISLATION, INTO THE REPORTED
PROLIFERATION OF FAKE DRUGS, WITH THE
END IN VIEW OF COMING UP WITH
MEASURES TO ADDRESS THE PROBLEM

Introduced by Senator Flavio

The President. Referred to the Committees on Health and Demography; and Trade and Commerce

The Secretary. Proposed Senate Resolution No. 828, entitled

RESOLUTION DIRECTING THE APPROPRIATE
COMMITTEE TO CONDUCT AN INQUIRY, IN
AID OF LEGISLATION, INTO THE REPORTED
VOYEURISM COMMITTED BY SOME
UNSCRUPULOUS PERSONS/GROUPS AGAINST
INNOCENT WOMEN USING PUBLIC TOILETS
IN SHOPPING MALLS, RESTAURANTS AND
OTHER SIMILAR ESTABLISHMENTS