

## RECORD OF THE SENATE

**TUESDAY, AUGUST 29, 2000**

### RESUMPTION OF THE SESSION

*At 3:32 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.*

**The President.** The session is resumed. Senator Sotto is recognized.

### BILL ON SECOND READING S. No. 1816—Cagayan Special Economic Zone and Free Port Act (Continuation)

**Senator Sotto.** Mr. President, I move that we resume consideration of Senate Bill No. 1816 as reported out under Committee Report No. 82.

**The President.** Is there any objection? *[Silence]* There being none, the motion is approved. Resumption of consideration of Senate Bill No. 1816 is now in order.

**Senator Sotto.** Mr. President, I move that the principal sponsor, Sen. Loren Legarda-Leviste be recognized.

For the parliamentary status, Mr. President, we are in the period of individual amendments. Sen. Miriam Defensor Santiago would like to propose some amendments to the bill.

**The President.** This is the Cagayan Special Economic Zone and Free Port Act, Senate Bill No. 1816, the CEZA.

Sen. Loren Legarda-Leviste is recognized. We are in the period of individual amendments. Sen. Miriam Defensor Santiago is recognized.

### DEFENSOR SANTIAGO AMENDMENT

**Senator Defensor Santiago.** Thank you.

I would like to propose the following amendments for the kind consideration, both of the sponsor and our colleagues. I shall refer to my proposed amendments by page and line number. I would like, with the Chair's indulgence, to start on page 8.

The proposed amendment is: After line 9, insert the phrase **SUBJECT TO THE LIMITATIONS OF R.A. NO. 776 OTHERWISE KNOWN AS THE CIVIL AERONAUTICS ACT.**

Please allow me to explain the basis for this proposed amendment.

The Civil Aeronautics Act provides that the Civil Aeronautics Board shall have the power to regulate the economic aspect of air transportation and shall have the general supervision and regulation of, and jurisdiction and control over air carriers. The Civil Aeronautics Act also specifically provides that it is the Director, now the Assistant Secretary, of the ATO who shall administer all laws relating to civil aviation in the country. And therefore, pursuant to the provisions of Republic Act No. 776 or the Civil Aeronautics Act, I propose that we must add this clarificatory clause with the explanation that whether or not we do it, the situation would still be as contemplated by the proposed amendment. That is to say, this provision on the authority to negotiate with foreign airlines and carriers would still be subject to the limitations of the Civil Aeronautics Act.

**Senator Legarda-Leviste.** We accept the amendment, Mr. President.

**Senator Defensor Santiago.** Thank you, Mr. President.

**The President.** The amendment having been accepted, is there any objection?

**Senator J. Osmeña.** Mr. President.

**The President.** Yes, Sen. John Osmeña is recognized.

**Senator J. Osmeña.** Just a question to the lady senator from Iloilo, the sponsor of the amendment, to clarify it.

Now, under our laws, air agreements are bilateral agreements between the Republic of the Philippines and the other contracting party. Now, if the Cagayan Port Authority is going to be vested with the power of negotiating subject to the provisions of the law creating the Civil Aeronautics Board, who is going to negotiate for the Republic of the Philippines? Is it going to be the Cagayan Port Authority or the Department of Transportation and Communications?

**Senator Defensor Santiago.** Obviously, the sponsor contemplates a situation where the Cagayan Export Zone Authority would directly be authorized to conduct negotiation. But if we are going to add the proviso concerning the powers of the Civil Aeronautics Board, then it has to be the Director of the ATO or even a higher superior officer.

**Senator J. Osmeña.** So that is going to be the negotiating party, Mr. President?

**Senator Defensor Santiago.** That is correct, Mr. President.

can be discussed. Is there any objection? [Silence] There being none, the session is suspended for one minute.

*It was 3:50 p.m.*

#### RESUMPTION OF SESSION

*At 3:51 p.m., the session was resumed.*

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

#### SUSPENSION OF CONSIDERATION OF S. NO. 1816

**Senator Sotto.** Mr. President, while we are threshing out some minor misunderstandings at this point on the Senate bill at hand, I move that we suspend consideration of the bill so that we may give a chance to a Bicameral Conference Committee Report to be taken up by the Body at this time of the day.

**The President.** With the permission of the Chamber then, consideration of Senate Bill No. 1816 is hereby suspended to give way to the consideration of a Bicameral Conference Committee Report, if there is no objection. [There was none.]

#### CONFERENCE COMMITTEE REPORT ON S. NO. 2038/H. NO. 898 (Anti-Injunction Act of 2000)

**Senator Sotto.** Mr. President, I move that we consider the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 2038 and House Bill No. 898, to be reported by the chairman of the Bicameral Conference Committee, Sen. Renato L. Compañero Cayetano.

**The President.** Consideration of the joint explanation of the Conference Committee Report on the disagreeing provisions of Senate Bill No. 2038 and House Bill No. 898 is now in order.

Sen. Renato L. Compañero Cayetano, the chairman of the Senate contingent, is hereby recognized to render the report.

#### REPORT OF SENATOR CAYETANO

**Senator Cayetano.** Thank you, Mr. President. With the permission of the Assistant Majority Leader, allow me to report the result of the Bicameral Conference Committee meetings that took place for two successive nights, beginning Monday and up until last night on the disagreeing provisions on Senate Bill No. 2038 and House Bill No. 898.

Mr. President, copies of the joint explanation, together

with the final bill for ratification, have been distributed. With the permission of the Chair, let me read the explanation of the conference committee on the disagreeing provisions.

1. The Conferees agreed to delete Section 1 of the Senate version, which is the *Short Title*.

2. Section 2 of the Senate version was amended by deleting the phrase "it is an avowed policy of the State that". This Section 2, really, is the Declaration of Policy which now becomes Section 1.

3. The first paragraph of Section 2 which is the *Definition of Terms* was culled from a consolidation of Section 3 of the Senate and House versions and would now read as follows:

#### SEC. 2. Definition of Terms.-

(a) "National government projects" shall refer to all current and future national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding.

What was taken out here from the Senate version was the definition of national government projects that may be undertaken by the local government units. The conferees agreed that this should not be covered by this bill.

A second paragraph was provided to define the meaning of "Service contract".

4. Section 3, which is the *Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Injunctions and Preliminary Mandatory Injunctions*, was crafted from a consolidation of Section 4 of the Senate and House versions and shall now read as follows:

SEC. 3. *Prohibition On the Issuance of Temporary Restraining Orders, Preliminary Injunctions and Preliminary Mandatory Injunctions.* - No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction, or preliminary mandatory injunction, against the government, or any

of its subdivisions, officials or any person or entity, whether public or private, acting under the government's direction, to restrain, prohibit, or compel the following acts:

There is now an enumeration actually, and this is the revised version:

(a) Acquisition, clearance and development of the right-of-way and/or site or location of any national government project;

(b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof;

(c) Commencement, prosecution, execution, implementation, operation of any such contract or project;

(d) Termination or rescission of any such contract/project; and

(e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

The next paragraph is the Senate version, although it was subjected to style:

This prohibition shall apply in all cases, disputes or controversies instituted by a private party, including but not limited to cases filed by bidders or those claiming to have rights through such bidders involving such contract/project.

The next paragraph is again a novel crafting of a bill as proposed by Senator Pimentel to make it less legalistic for our people to understand:

This prohibition shall not apply when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. The applicant shall file a bond, in an amount to be fixed by the court, which bond shall accrue in favor of the government if the court should finally decide that the applicant was not entitled to the relief sought.

The next paragraph is the proposal of the House, and it says:

If after due hearing the court finds that the award of the contract is null and void, the court may, if

appropriate under the circumstances, award the contract to the qualified and winning bidder or order a rebidding of the same, without prejudice to any liability that the guilty party may incur under existing laws.

5. Section 5 of the House version was amended and adopted as the last proviso of Section 3 of the reconciled version.

6. Section 5 of the Senate version was adopted *in toto* as Section 4 of the reconciled version. It is really entitled *Nullity of Writs and Orders*.

7. Section 6 of the Senate version was deleted. This was to authorize the Supreme Court to refer this matter to the Court of Appeals. The reason of the House which was accepted by the Senate conferees was that this is really a matter that is often practiced by the Supreme Court, and we would not want to be criticized by the Supreme Court, so to speak, in reminding it of what it may be able to do under its own jurisdiction.

8. The first sentence of Section 7 of the Senate version was adopted as the first sentence of Section 5—meaning *Designation of Regional Trial Courts*—of the reconciled version, while the second sentence of the Senate version was amended to read:

The designated regional trial court shall within thirty (30) days from the date of receipt of the referral, forward its findings of facts to the Supreme Court for appropriate action.

The important thing here, Mr. President, is that the period of 30 days is mandatory. This was proposed by our conferee, Senator Pimentel.

9. Section 8 of the Senate version was amended by adding the words OR SHE between the words "he" and "may", the reason being that while we describe the judge as masculine, we want to ensure that this refers also to a female judge.

10. Section 7 of the House version was amended to read as follows: *"Issuance of Permits."* This is a provision proposed by the House and accepted by the Senate conferees:

SEC. 7. *Issuance of Permits.*— Upon payment in cash of the necessary fees levied under Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991, the governor of the province or mayor of a highly urbanized city shall immediately issue the necessary permit to extract sand, gravel and

other quarry resources needed in government projects. The issuance of said permit shall consider environmental laws, land use ordinances and the pertinent provisions of the Local Government Code relating to environment.

This was adopted as Section 7 of the reconciled version.

11. Section 9 of the Senate version was adopted as Section 8—that is the *Separability Clause*—of the reconciled version.

12. Section 10 of the Senate version was amended to read as follows:

**SEC. 9. Repealing Clause.**— All laws, decrees, including Presidential Decree Nos. 605, 1818 and Republic Act No. 7160, as amended, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

This was adopted as Section 9 of the reconciled version.

13. Section 11 of the Senate version was adopted as Section 10, which is the *Effectivity Clause* of the reconciled version.

14. Lastly, the title of the reconciled version was crafted from a consolidation of the Senate and House versions and shall read:

AN ACT TO ENSURE THE EXPEDITIOUS IMPLEMENTATION AND COMPLETION OF GOVERNMENT INFRASTRUCTURE PROJECTS BY PROHIBITING LOWER COURTS FROM ISSUING TEMPORARY RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS OR PRELIMINARY MANDATORY INJUNCTIONS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES.

Mr. President, I would like to thank the Senate conferees, Senators Pimentel and Jaworski, who labored for the last two nights in crafting and helping the chairman in the Bicameral Conference Committee work.

With that, I move, unless there is a question, for the ratification of the Conference Committee Report and the accompanying bill thereof.

The Majority Leader. Mr. President, Sen. John H. Osmeña wishes to be recognized.

The President. Sen. John H. Osmeña is recognized.

Senator J. Osmeña. Mr. President, I have just a few questions, if the sponsor will so kindly yield.

Senator Cayetano. Gladly, to the gentleman from Cebu, Mr. President.

Senator J. Osmeña. Thank you, Mr. President.

Mr. President, I note that the last line of paragraph 3 of the Conference Committee Report says a second paragraph wherein the term "service contracts" is defined was added.

If my recollection is correct, there was no definition of "service contracts" in the bill that was approved in the Senate, Senate Bill No. 2038. Is that not correct?

Senator Cayetano. That is true. In the Senate version, Mr. President, there was no definition of "service contracts." Therefore, in the first night of our meeting, we agreed that we will consult authorities on the meaning of "service contracts" in order to express it in this particular bill. We did find an authority on what "service contracts" is all about. The definition is now expressed in this bill.

Senator J. Osmeña. Mr. President, in the House version, House Bill No. 898, was there a definition of "service contract"?

Senator Cayetano. There was none also, Mr. President.

Senator J. Osmeña. Mr. President, the task of the Conference Committee is to reconcile conflicting provisions. Would the addition of this definition of "service contract" now not be beyond the task of the Conference Committee? In other words, the Conference Committee has incorporated into the law something that was absent from both versions—the House and the Senate versions.

Senator Cayetano. Mr. President, we consider this as a matter of style in terms of really defining certain terms. So we do not believe that we did transgress the Senate version of our bill.

Senator J. Osmeña. Mr. President, I beg to disagree. I think this is a very substantive addition to this bill because the contemplation of both Chambers in this particular case was simply the matter of national government projects and not the matter of "service contracts" which are actually not public works or infrastructure projects.

That is why, Mr. President, while I do not know what the case is, but I remember it was in the Supreme Court decision on

VAT, the Supreme Court, layman that I am, if I remember correctly, more or less, gave the Conference Committee ample powers.

So I am just rising here, Mr. President, to point out that in this particular case and if both Chambers approve this Report, then we should have set a precedent that the Conference Committee can incorporate new subjects and new language that are not a matter of conflict between the two Chambers in a Conference Committee Report.

**Senator Cayetano.** Mr. President, as I said, both versions contain the phrase "service contracts" as part of the definition. What is only missing is the definition of what constitutes a "service contract".

That is why I said, Mr. President, when the conferees defined the term "service contracts," which is found in both versions, it is more of a matter of style to ensure that we understand what we are really talking about.

**Senator Pimentel.** Mr. President, may I, with the permission of the two gentlemen—

**The President.** Sen. Aquilino Q. Pimentel Jr. is recognized.

**Senator Pimentel.** —submit this input that, as a matter of fact, the observation of Sen. John Osmeña is amply covered by this definition because the "service contracts" referred to here shall refer to infrastructure contracts.

In other words, the apprehensions of Sen. John Osmeña that it might cover other kinds of contracts, which would normally fall within the ambit of "service contracts," are, in fact, being narrowed down by this definition to "service contracts" only and those which are entered into by the national government.

**Senator J. Osmeña.** In effect, Mr. President, with the permission of the sponsor, just to clarify for the record, the intention of the Conference Committee here is simply to add on or to amplify the concept that we are legislating here—that it should incorporate a prohibition on "service contracts" related to the execution of infrastructure projects.

**Senator Pimentel.** In effect, Mr. President, we are limiting precisely that concept, as used in this bill, to only infrastructure contracts being delivered or administered by the central government.

**Senator J. Osmeña.** Because the phrase "service contract" covers a whole gamut of services.

**Senator Pimentel.** That is correct.

**Senator J. Osmeña.** Including the services of private medical practitioners in government hospitals.

**Senator Cayetano.** Also security guards, Mr. President, and even janitorial services.

**Senator J. Osmeña.** Yes.

**Senator Cayetano.** And that is what my co-conferee, Senator Pimentel, was saying, that precisely because of that, we want to limit that the term "service contracts" refers to infrastructure works only.

**Senator J. Osmeña.** So the service contract, for example, of a port undertaking stevedoring is not included?

**Senator Cayetano.** It is included, of course. That is infrastructure.

**Senator J. Osmeña.** No. It is the operation of a port. *Tapos na iyong port.* There is no longer a...

**Senator Cayetano.** No more.

**Senator Pimentel.** *Hindi na.*

**Senator Cayetano.** That is management already.

**Senator J. Osmeña.** The service contract in the janitorial services in the New Millennium Airport is not included.

**Senator Cayetano.** Of course, Mr. President.

**Senator J. Osmeña.** *Maliwanag ang usapan.*

**Senator Cayetano.** Maybe, the service contract of our lawyers, yes, Mr. President.

**Senator J. Osmeña.** Since my colleagues are all lawyers, I guess that is a...

Thank you, Mr. President.

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

**The President.** Is that satisfactory?

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

I have another question, Mr. President. I would like to move to another matter.

It is very obvious that this only involves a national government project.

**Senator Cayetano.** Yes, Mr. President.

**Senator J. Osmeña.** How about a project that is undertaken by the local government with the assistance, support, financing or in any form or shape, participation by a national government agency? Would that be covered, Mr. President?

**Senator Cayetano.** Mr. President, as I explained before, the Senate version includes the national government, government-owned and operated corporations and local governments. But during the discussion with the conferees, it was brought to our attention that if we include the infrastructure projects of local governments, even barangays and municipal infrastructure projects may be considered. That is why, it was agreed that infrastructure projects by local governments would not be covered by this reconciled version.

**Senator J. Osmeña.** How about infrastructure projects funded by the national government, which are being implemented or executed by local governments, Mr. President?

**Senator Cayetano.** That was also discussed, Mr. President. But as long as the principal owner or operator of this infrastructure project is the local government, it is not covered, regardless of where the funding comes from.

**Senator J. Osmeña.** Mr. President, for example, a bridge. Who is the operator of a bridge?

Under our Public Works Act, under our General Appropriations Act, we have provisions there which say that the Department of Public Works is hereby authorized when the local government unit has demonstrated the capability of undertaking a project to execute a memorandum of understanding or a memorandum of agreement for the local government to undertake the implementation of that project.

My question, Mr. President, is: Is that covered now or is it not covered?

**Senator Cayetano.** It is not, Mr. President. It was not contemplated.

**Senator J. Osmeña.** It was not contemplated.

Mr. President, when the national government, for example, the National Power Corporation authorizes—as in the case of Bacolod, because there is an injunction there—the Local Electric Cooperative of Bacolod to undertake the construction of

a power plant. This is the NEA and the NPC authorizing a local unit called an “Electric Coop” to undertake a project.

**Senator Cayetano.** That is another matter, Mr. President. If the local government will merely undertake the construction, but it is really national government-owned, then, of course, it is covered by this bill.

**Senator J. Osmeña.** Mr. President, how about in the case of the South Reclamation Project in Cebu? This is a project of the City of Cebu funded through a loan by the city from the old OECF which is now called JBIC, channeled through the Land Bank of the Philippines. And because it ran out of money, the Public Estates Authority has now agreed to finance a portion of that project with funds from the national government. Is that a local project, or is that a national project, Mr. President?

**Senator Cayetano.** If I am not mistaken, Mr. President, the Cebu Reclamation Project as far as the land is concerned—because this is foreshore and reclaimed—is really owned by the PEA.

**Senator J. Osmeña.** No, Mr. President. This is a reclamation project clearly being undertaken by the City of Cebu, and there is no dispute on this.

**Senator Cayetano.** No, undertaken on behalf of whom?

**Senator J. Osmeña.** Under its own authority as provided for by law.

**Senator Cayetano.** By law?

**Senator J. Osmeña.** Yes.

**Senator Cayetano.** Because the foreshore land is owned by the City of Cebu.

**Senator J. Osmeña.** In the case of the City of Cebu, there is a Supreme Court decision which upheld the validity of the South Reclamation Project.

**Senator Cayetano.** Yes. In fact, I mentioned that in one of my...

**Senator J. Osmeña.** So is this a project of the city or is this a national project?

**Senator Cayetano.** The Supreme Court says that all reclamation projects of foreshore lands are covered in the term “infrastructure project” under PD No. 1818 not under “service contracts.” So the reclamation of the foreshore land will now

be covered under the definition of "infrastructure project" by the national government, as the Supreme Court defined the same under PD No. 1818. So we have to follow the decision of the Supreme Court.

**Senator J. Osmeña.** Mr. President, to find an analogy—suppose an individual is building a house and then he ran out of money and he cannot finish the kitchen, so he borrows money from another governmental agency or he borrows money to finish the kitchen. That project remains the project of the owner of the house. Is that not correct?

**Senator Cayetano.** Of course, yes. In all likelihood, that will be mortgaged to the financier, but that is still the project of the owner.

**Senator J. Osmeña.** Therefore, this project,—I do not want to go into that Supreme Court decision anymore. Let the Court decide on this because this is now a very heated question in Cebu, the right of Judge Paredes of the Court there to restrain this project—in the contemplation of the committee, is a national government project?

**Senator Cayetano.** Yes, it will be covered, because it is the Supreme Court that says, "Reclamation of foreshore land is covered by PD No. 1818 because it is included in the term 'infrastructure works' by the national government."

**Senator J. Osmeña.** I thank the distinguished gentleman.

APPROVAL OF CONFERENCE COMMITTEE  
REPORT ON S. NO. 2038/H. NO. 898

**The President.** There is a motion for the approval of the Conference Committee Report. Is there any objection? [*Silence*] There being none, the Conference Committee Report on the disagreeing provisions of Senate Bill No. 2038 and House Bill No. 898 is hereby approved.

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

*The following is the whole text of the conference committee report:*

JOINT EXPLANATION OF THE CONFERENCE  
COMMITTEE ON THE DISAGREEING PROVISIONS OF  
SENATE BILL NO. 2038 AND HOUSE BILL NO. 898

The Conference Committee on the disagreeing provisions of Senate Bill No. 2038 and House Bill No. 898, after having met and fully discussed the subject

matter in a conference on August 28, 2000, hereby report to their respective Houses the following:

1. The Conferees agreed to delete Section 1 (*Short Title*).

2. Section 2 of the Senate version was amended by deleting the phrase "it is an avowed policy of the State that" between the words "that" and "the" and was adopted as Section 1 (*Declaration of Policy*) of the reconciled version.

3. The first paragraph of Section 2 (*Definition of Terms*) was culled from a consolidation of Section 3 of the Senate and House versions and would read:

"SEC. 3. *Definition of Terms.* —

(a) "National government projects" shall refer to all current and future national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding."

A second paragraph wherein the term "Service contract" is defined was added.

4. Section 3 (*Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Injunctions and Preliminary Mandatory Injunctions*) was crafted from a consolidation of Section 4 of the Senate and House versions and shall read:

"SEC. 3. *Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Injunctions and Preliminary Mandatory Injunctions.* - No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction, or preliminary mandatory injunction, against the government, or any of its subdivisions, officials or any person or entity, whether public or private, acting under the government's direction, to restrain, prohibit, or compel the following acts:

(a) Acquisition, clearance and development of the right-of-way and/or site or location of any national government project;

(b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof;

(c) Commencement, prosecution, execution, implementation, operation of any such contract or project;

(d) Termination or rescission of any such contract/project; and

(e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

This prohibition shall apply in all cases, disputes or controversies instituted by a private party, including but not limited to cases filed by bidders or those claiming to have rights through such bidders involving such contract/project. This prohibition shall not apply when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. The applicant shall file a bond, in an amount to be fixed by the court, which bond shall accrue in favor of the government if the court should finally decide that the applicant was not entitled to the relief sought.

If after due hearing the court finds that the award of the contract is null and void, the court may, if appropriate under the circumstances, award the contract to the qualified and winning bidder or order a rebidding of the same, without prejudice to any liability that the guilty party may incur under existing laws."

5. Section 5 of the House version was amended and adopted as the last proviso of Section 3 of the reconciled version.

6. Section 5 of the Senate version was adopted *in toto* as Section 4 (*Nullity of Writs and Orders*) of the reconciled version.

7. Section 6 of the Senate version was deleted.

8. The first sentence of Section 7 of the Senate version was adopted as the first sentence of Section 5 (*Designation of Regional Trial Courts*) of the reconciled version while the second sentence of the Senate version was amended to read:

"The designated regional trial court shall within thirty (30) days from the date of receipt of the referral, forward its findings of facts to the Supreme Court for appropriate action."

and was adopted as the second sentence of the aforesaid section.

9. Section 8 of the Senate version was amended by adding the words "or she" between the words "he" and "may" and was adopted as Section 6 (*Penal Sanction*) of the reconciled version.

10. Section 7 of the House version was amended to read as follows:

"SEC. 7. *Issuance of Permits.* - Upon payment in cash of the necessary fees levied under Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991, the governor of the province or mayor of a highly-urbanized city shall immediately issue the necessary permit to extract sand, gravel and other quarry resources needed in government projects. The issuance of said permit shall consider environmental laws, land use ordinances and the pertinent provisions of the Local Government Code relating to environment."

and was adopted as Section 7 (*Issuance of Permits*) of the reconciled version.

11. Section 9 of the Senate version was adopted as Section 8 (*Separability Clause*) of the reconciled version.

12. Section 10 of the Senate version was amended to read as follows:

"SEC. 9. *Repealing Clause.* - All laws, decrees, including Presidential Decree Nos. 605, 1818 and Republic Act No. 7160, as amended, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly."

and was adopted as Section 9 (*Repealing Clause*) of the reconciled version.

13. Section 11 of the Senate version was adopted as Section 10 (*Effectivity Clause*) of the reconciled version.

14. Lastly, title of the reconciled version was crafted from a consolidation of the Senate and House versions and shall read:

"AN ACT TO ENSURE THE EXPEDITIOUS IMPLEMENTATION AND COMPLETION OF GOVERNMENT INFRASTRUCTURE PROJECTS BY PROHIBITING LOWER COURTS FROM ISSUING TEMPORARY RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS OR PRELIMINARY MANDATORY INJUNCTIONS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES"

In case of conflict between the statements/ amendments stated in this Joint Explanation and that of the provisions of the consolidated bill in the accompanying Conference Committee Report, the provisions of the latter shall prevail.

(Sgd.) PACIFICO M. FAJARDO  
*Chairman, House Panel*

(Sgd.) RENATO L. COMPAÑERO CAYETANO  
*Chairman, Senate Panel*

#### CONFERENCE COMMITTEE REPORT

The Conference Committee on the disagreeing provisions of Senate Bill No. 2038, entitled

AN ACT PROHIBITING LOWER COURTS FROM ISSUING TEMPORARY RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS OR PRELIMINARY MANDATORY INJUNCTIONS IN CASES INVOLVING GOVERNMENT INFRASTRUCTURE PROJECTS TO ENSURE THE EXPEDITIOUS IMPLEMENTATION AND COMPLETION THEREOF, AMENDING FOR THIS PURPOSE PRESIDENTIAL DECREE NOS. 605 AND 1818, AND FOR OTHER PURPOSES,

and House Bill No. 898, entitled

AN ACT TO ENSURE THE EXPEDITIOUS IMPLEMENTATION OF GOVERNMENT

#### PROJECTS AND PROVIDING PENALTIES AND SANCTIONS FOR VIOLATIONS THEREOF,

after having met and discussed the subject matter in full and free conference, has agreed, and does hereby recommend to their respective Houses that Senate Bill No. 2038, in consolidation with House Bill No. 898, be approved in accordance with the attached copy of the bill as reconciled and approved by the conferees.

Approved,

#### CONFEREES ON THE PART OF THE HOUSE OF REPRESENTATIVES:

(Sgd.) PACIFICO M. FAJARDO  
*Chairman, House Panel*

OSCAR S. RODRIGUEZ

(Sgd.) SALACNIB F. BATERINA

EDMUNDO O. REYES JR.

(Sgd.) ERICO B. AUMENTADO

(Sgd.) FRANCIS JOSEPH G. ESCUDERO

EDUARDOR. GULLAS

FELICIANOR. BELMONTE JR.

(Sgd.) SERGIO ANTONIO F. APOSTOL

RAUL M. GONZALEZ

(Sgd.) MAGTANGGOL T. GUNIGUNDO

(Sgd.) ALLAN PETER CAYETANO

#### CONFEREES ON THE PART OF THE SENATE:

(Sgd.) RENATO L. COMPAÑERO CAYETANO

(Sgd.) AQUILINO Q. PIMENTEL JR.

(Sgd.) ROBERT S. JAWORSKI

RAUL S. ROCO

AN ACT TO ENSURE THE EXPEDITIOUS IMPLEMENTATION AND COMPLETION OF

GOVERNMENT INFRASTRUCTURE PROJECTS  
BY PROHIBITING LOWER COURTS FROM  
ISSUING TEMPORARY RESTRAINING  
ORDERS, PRELIMINARY INJUNCTIONS OR  
PRELIMINARY MANDATORY INJUNCTIONS,  
PROVIDING PENALTIES FOR VIOLATIONS  
THEREOF, AND FOR OTHER PURPOSES

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

SECTION 1. *Declaration of Policy.* - Article XII, Section 6 of the Constitution states that the use of property bears a social function, and all economic agents shall contribute to the common good. Towards this end, the State shall ensure the expeditious and efficient implementation and completion of government infrastructure projects to avoid unnecessary increase in construction, maintenance and/or repair costs and to immediately enjoy the social and economic benefits therefrom.

SEC. 2. *Definition of Terms.* --

(a) "*National government projects*" shall refer to all current and future national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding.

(b) "*Service contracts*" shall refer to infrastructure contracts entered into by any department, office or agency of the national government with private entities and non-government organizations for services related or incidental to the functions and operations of the department, office or agency concerned.

SEC. 3. *Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Injunctions and Preliminary Mandatory Injunctions.* - No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction, or preliminary mandatory injunction, against the government, or any of its subdivisions, officials or any person or entity,

whether public or private, acting under the government's direction, to restrain, prohibit, or compel the following acts:

(a) Acquisition, clearance and development of the right-of-way and/or site or location of any national government project;

(b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof;

(c) Commencement, prosecution, execution, implementation, operation of any such contract or project;

(d) Termination or rescission of any such contract/project; and

(e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

This prohibition shall apply in all cases, disputes or controversies instituted by a private party, including but not limited to cases filed by bidders or those claiming to have rights through such bidders involving such contract/project. This prohibition shall not apply when the matter is of extreme urgency involving a constitutional issue, such that unless temporary restraining order is issued, grave injustice and irreparable injury will arise. The applicant shall file a bond, in an amount to be fixed by the court, which bond shall accrue in favor of the government if the court should finally decide that the applicant was not entitled to the relief sought.

If after due hearing the court finds that the award of the contract is null and void, the court may, if appropriate under the circumstances, award the contract to the qualified and winning bidder or order a rebidding of the same, without prejudice to any liability that the guilty party may incur under existing laws.

SEC. 4. *Nullity of Writs and Orders.* - Any temporary restraining order, preliminary injunction or preliminary mandatory injunction issued in violation of Section 3 hereof is void and of no force and effect.

SEC. 5. *Designation of Regional Trial Courts.* - The Supreme Court may designate Regional Trial Courts to act as commissioners with the sole function of receiving facts of the case involving acquisition, clearance and development of right-of-way for government infrastructure projects. The designated

regional trial court shall within thirty (30) days from the date of receipt of the referral, forward its findings of facts to the Supreme Court for appropriate action.

**SEC. 6. Penal Sanction.** - In addition to any civil and criminal liabilities he or she may incur under existing laws, any judge who shall issue a temporary restraining order, preliminary injunction or preliminary mandatory injunction in violation of Section 3 hereof, shall suffer the penalty of suspension of at least sixty (60) days without pay.

**SEC. 7. Issuance of Permits.** - Upon payment in cash of the necessary fees levied under Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991, the governor of the province or mayor of a highly-urbanized city shall immediately issue the necessary permit to extract sand, gravel and other quarry resources needed in government projects. The issuance of said permit shall consider environmental laws, land use ordinances and the pertinent provisions of the Local Government Code relating to environment.

**SEC. 8. Separability Clause.** - If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected thereby shall continue to be of full force and effect.

**SEC. 9. Repealing Clause.** - All laws, decrees, including Presidential Decree Nos. 605, 1818 and Republic Act No. 7160, as amended, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

**SEC. 10. Effectivity Clause.** -- This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,

Senator Sotto. Mr. President, Senator Pimentel Jr. wishes to be recognized.

The President. Sen. Aquilino Q. Pimentel Jr. is recognized. What is the pleasure of Senator Pimentel?

#### EXPLANATION OF VOTE OF SENATOR PIMENTEL

Senator Pimentel. May I put into the *Record* my vote on this bill, Mr. President, a very brief explanation.

The President. Yes, Senator Pimentel may proceed.

Senator Pimentel. Mr. President, I am voting in favor of this report and of this bill. Despite certain apprehensions by a number of our people that we are in effect sustaining a regime of emergency powers under this proposal, I would like to put into the *Record* that the wording of the bill as now reported to this Chamber would contradict such a presupposition.

(1) As has been introduced by Sen. Miriam Defensor Santiago, the prohibitions in the issuance of TROs and preliminary injunctions and all kinds of mandatory injunctions will not apply when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. This very provision, Mr. President, although it is an exception to the general rule being set out in this bill, would in effect be a protection to those whose constitutional rights would be trampled upon.

(2) The Supreme Court is also authorized to designate Regional Trial Courts to act as commissioners with the sole function of receiving facts of the case involving acquisition, clearance and development of right-of-way for government infrastructure projects.

The purpose of this provision is to enable our people to have access to the nearest Regional Trial Court in their locality without need of having to litigate the issues before the Supreme Court which is sitting in Manila.

Also, I would like to make mention of the fact that in the Local Government Code provisions on consultations with LGUs, LGU's concerned citizens will continue to apply in view of the wording of the last sentence of Section 7, which states: "The issuance of permits shall consider environmental laws, land use ordinances, and the pertinent provisions of the Local Government Code relating to environment."

Lastly, Mr. President, even the provisions of the Urban Development and Housing Act are not expressly repealed here because the assumption is that these are not contradictory to or inconsistent with the provisions of this Act.

Thank you very much, Mr. President.

The President. Thank you, Senator Pimentel. The Majority Leader is recognized.

#### ACKNOWLEDGMENT OF THE OFFICIAL VISIT OF STUDENTS FROM THE CENTRAL LUZON STATE UNIVERSITY OF NUEVA ECJA

Senator Sotto. Mr. President, at this point, I would like to