

RECORD OF THE SENATE

WEDNESDAY, AUGUST 9, 2000

OPENING OF THE SESSION

At 3:15 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The ninth session of the Senate in the Third Regular Session of the Eleventh Congress is hereby called to order.

We shall be led in prayer by the Minority Leader, Sen. Teofisto T. Guingona Jr.

Everybody rose for the prayer.

PRAYER

Senator Guingona.

Dear God in Heaven,

We pray for the victims of death and destruction in Mindanao;

We pray for the cessation of hostilities, for that elusive peace the people deserve;

We pray for hope, not despair; love not war; goodwill, not hatred;

We therefore ask for strength—that the nation face with fortitude the many challenges that beset us;

We ask for guidance that the government discharge its awesome duties with resolute justice for all;

We ask that You infuse into our minds and hearts the spirit of Your own Son, Jesus, Who died on the cross to set men free.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

Senator Teresa Aquino-Oreta	Absent**
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. Flavie	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	Absent**
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 19 senators present, there is a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Tatad. Mr. President, I move that we dispense with the reading of the *Journal* of Session No. 8, Tuesday, August 8, 2000, and consider it approved.

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

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

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

The Secretary will read the Reference of Business.

* Arrived after the roll call

** On account of illness

government and the private sectors shall be solicited to establish an endowment fund for the PQA system. The PQA Committee shall be responsible for creating a foundation which shall manage the endowment fund.

This is the provision of the existing law. As chairman of the PQA Committee under this existing executive order, the DTI secretary is responsible for creating a foundation which will manage this endowment fund. My question is: During the committee hearings on this bill, was it ever established whether the foundation was organized pursuant to this executive order? And what happened to the PQA endowment fund? In other words, I really want to find out where the provisions of the existing executive order were carried out.

Senator Magsaysay. I am afraid that the foundation was not established. If we will recall, Mr. President, this executive order was promulgated in 1997, October 3rd, towards the end of the term of the former President. It was only the PQA that was functioning, but there was no foundation established and there was no funding that followed this Section 10 particularly. That is why with this new measure, we do not mind again putting the equivalent of Section 10 in order to empower the PQA to put up a foundation as a recipient of any support for these efforts.

Senator Defensor Santiago. That was just a bare question on information and now that my apprehensions have been laid to rest, I thank the distinguished sponsor for his kindness and patience in answering my questions. And hereafter, we turn the floor to him.

Senator Magsaysay. Thank you, Mr. President.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. We would like to thank Senator Defensor Santiago for her excellent intervention.

SUSPENSION OF CONSIDERATION OF S. NO. 1946

In the meantime, I ask that we suspend consideration of Senate Bill No. 1946.

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

SUSPENSION OF SESSION

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

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

It was 4:13 p.m.

RESUMPTION OF SESSION

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

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

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

Senator Tatad. 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. We are now in the period of amendments. Yesterday the sponsor was allowed to introduce certain individual amendments into the *Record*. These amendments are now on record but they have not been acted upon.

May I ask that the sponsor, Senator Cayetano, be recognized so that we may act on the proposed amendments.

The President. Sen. Renato L. Cayetano is recognized.

Senator Cayetano. Thank you, Mr. President.

As the Majority Leader has indicated, the individual amendments are contained in the *Journal* of Tuesday, August 8, 2000, subject to our colleagues' comments and/or amendments, if any.

The President. The Chair would like to propose that we proceed section by section.

Senator Tatad. May I make sure that each member has a copy of the version.

Senator Cayetano. Mr. President, for the record, the revised copy of this bill as of August 8, 2000 was distributed yesterday.

Senator Tatad. I just want to make sure that each senator has in his folder a copy of the same because I do not have one.

SUSPENSION OF SESSION

The President. With the permission of the Chamber, the Chair declares a one-minute recess to enable the Secretariat to distribute these copies, if there is no objection. *[There was none.]*

It was 4:26 p.m.

RESUMPTION OF SESSION

At 4:27 p.m., the session was resumed.

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

Senator Tatad. We start with Section 2, Senator Cayetano.

Senator Cayetano. Mr. President, as I said earlier, the suggested amendments by the individual members of this august Body have been collated. These proposed amendments are now in the *Journal* and they also appear in the revised copy.

If there is no particular amendment, Mr. President, I move that the same be approved.

The President. Which one?

Senator Tatad. We proceed section by section. Section 2, Mr. President.

The President. Is there any objection to approve Section 2, as amended? *[Silence]* There being none, Section 2, from lines 3 to 11, on page 1, as amended, is hereby approved.

Senator Roco. No, just a minute, Mr. President.

The President. There is a motion to reconsider. Is Senator Roco reconsidering?

Senator Roco. Before we approve, Mr. President, I am not quite clear on the... We are now approving the proposed committee amendments. Is this what we are doing?

Senator Tatad. These are actually individual amendments being introduced by the sponsor.

Senator Roco. I am not clear on that. Are these committee amendments or individual amendments?

Senator Tatad. Mr. President, the bill is a substitute measure and the substitute measure is itself the committee amendment. In the course of the debate, there were certain

proposed amendments which have been reduced to individual amendments coming from the members and these are thus presented by the sponsor as such.

Senator Roco. So the committee amendments have been deemed approved? Is this what we are saying?

Senator Tatad. No, I am saying that Senate Bill No. 2038 is a substitute measure. Therefore, that is the committee amendment. And that committee amendment is a substitute measure. The sponsor is now proposing these amendments as collated from individual members during the debates.

Senator Roco. I can live with any procedure, Mr. President. But I am under the impression that the revised copy of August 8, which was accepted yesterday, has not yet been... We accepted it to be the working draft today.

Senator Tatad. That is correct.

Senator Roco. So we either move to approve it as a committee amendment in which case, then we may go to the period of individual amendments, or we propose each section as a committee amendment subject to individual amendments already. Whichever way, I can live with it, Mr. President. There can be no individual amendments without an approved committee amendment. So I am just not clear on what we are...

SUSPENSION OF SESSION

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

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

It was 4:30 p.m.

RESUMPTION OF SESSION

At 4:33 p.m., the session was resumed.

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

MOTION OF SENATOR TATAD
(To Approve Committee Amendments Contained
in August 8 Version of S. No. 2038)

Senator Tatad. Mr. President, with the consent of the Chamber, I move that we adopt the revised copy as of August 8, 2000 as the committee amendments and thereafter, we will allow individual amendments to be introduced.

The President. All right. So the motion is to approve the amendments as contained in the revised copy of August 8, 2000 *in toto*.

Senator Tatad. Yes, Mr. President.

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

So, we shall now proceed with the period of individual amendments.

The Minority Leader is recognized.

Senator Guingona. Mr. President, may I propose an amendment which I will leave to the distinguished sponsor where the same should be inserted, perhaps, in Section 3.

Mr. President, the proposed amendment reads as follows: NOTHING IN THIS ACT IS INTENDED TO SHIELD FROM JUDICIAL SCRUTINY IRREGULARITIES COMMITTED BY ADMINISTRATIVE AGENCIES. IN CASES, THEREFORE, INVOLVING CONSTITUTIONAL AND LEGAL ISSUES ARISING THEREFROM, APPROPRIATE COURTS MAY JUDICIALLY GRANT TROs AND PRELIMINARY INJUNCTION.

SUSPENSION OF SESSION

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

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

It was 4:36 p.m.

RESUMPTION OF SESSION

At 4:45 p.m., the session was resumed.

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

Senator Guingona. Mr. President, during the suspension of the session, we were asked by the distinguished sponsor to give an example that would merit a TRO or an injunction concerning the proposed bill.

Mr. President, my example is the case of a teacher who has saved money to buy a house. Without court action, without legal basis, the agency of the Department of Public Works and Highways, with the use of a bulldozer, razed the house in order

to build an infrastructure road. In that case, the poor teacher has no recourse and cannot fly to the Supreme Court to seek redress. That is contrary to the basic rights enshrined in the Constitution. Therefore, we should allow such a right to be maintained to the citizens of this land.

Senator Cayetano. Mr. President, in the language being proposed by the distinguished Minority Leader, he has agreed that it can be improved to cover the specific example that he has given. Let me say that in expropriation cases, the following conditions are possible by which a private property may be expropriated by the government for public use upon payment of just compensation:

First is by voluntary sale; second is by donation; and third is by negotiation, failure of which the government agency may pursue a judicial course of action by filing an expropriation case in the appropriate court.

In the example given to us by my esteemed colleague, neither of these conditions has apparently occurred or would occur, so much so that indeed, I would agree with the Minority Leader that the poor public schoolteacher has been deprived of her property without due process of law. Therefore, under that specific and clear example, I would agree that that is not covered by this particular bill. Therefore, that particular schoolteacher may seek a temporary restraining order or even an injunctive relief because that is beyond the contemplation not only of PD No. 1818, but even of this bill we are now considering.

So, Mr. President, under that specific condition and a similarly situated example where the requirements of the law on expropriation are, may I repeat, to emphasize: it must be for public use upon payment of just compensation; that there is no voluntary sale; that there is no donation; that there is failure to negotiate; and no cause of action is brought, in that case, I will agree and will accept that amendment subject to changes in some of the languages being proposed by the Minority Leader.

The President. The amendment, subject to style, has been accepted by the sponsor under the conditions mentioned by the sponsor.

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

Senator Tatad. Mr. President, may I ask that Sen. Robert Z. Barbers be recognized.

The President. Sen. Robert Z. Barbers is recognized.

Senator Barbers. Thank you, Mr. President. I have only two points to raise. The prohibition on the issuance of the temporary restraining orders and preliminary injunctions by the courts is no longer new because it came into existence since July 16, 1981 with the advent of PD No. 1818 which specifically prohibits all courts to issue TROs and preliminary injunctions in cases involving infrastructures, natural resource development projects and public utilities operated by the government.

Just recently, the Supreme Court, in a ruling, came out with the statement that this prohibition applies only to issuance of restraining orders and injunction of courts with respect to administrative acts and controversies involving facts or the exercise of discretion in technical cases. The reason being, that this dominion falls under the expertise of the administrative machinery. That is why on issues outside of this dominion and involving questions of law, courts can issue restraining orders and injunctions against administrative acts.

Now, Section 3 of the proposed bill, Mr. President, is not quite clear to me. That is why I would like to propose an amendment, with the permission of the author, if this could be accepted, in order to avoid controversies in the future and in order to clarify the law and prevent doubts.

So my proposal is this. If this section is in accordance with the ruling of the Supreme Court, I would propose that on page 4, after the period (.) on line 27, following the word "LAW", add the phrase *PROVIDED, THAT SUCH PROHIBITION SHALL APPLY ONLY AGAINST ADMINISTRATIVE ACTS ON CONTROVERSIES INVOLVING FACTS OR EXERCISE OF DISCRETION IN TECHNICAL CASES.* The reason being that to allow the courts to judge these matters could disturb the smooth functioning of the administrative machinery.

Senator Cayetano. Mr. President, may I have a few minutes with my colleague in Lakas.

The President. Is there a motion to suspend the session?

SUSPENSION OF SESSION

Senator Tatad. Mr. President, I move that we suspend the session for a few minutes.

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

It was 4:55 p.m.

RESUMPTION OF SESSION

At 4:58 p.m., the session was resumed

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

Senator Barbers. Thank you, Mr. President. After consulting with my partymates, I am now convinced, and I am withdrawing my proposed amendment.

The President. All right. The amendment is withdrawn.

Senator Barbers. Under pain of expulsion from the party, Mr. President. *[Laughter]*

The President. With the permission of Senator Barbers who has the floor, Senator Roco is raising his hand.

Senator Roco. No, Mr. President. Only if the Lakas members are over.

The President. Senator Barbers still has another amendment. The Chair will recognize Senator Roco afterwards.

Senator Roco. Yes, Mr. President.

Senator Barbers. Just one last proposed amendment, Mr. President, and this is on page 4, Section 3, "*Prohibition on the Issuance of Temporary Restraining Orders and Preliminary Injunctions.* – No court, except the Supreme Court..." After the word "Court", I would like to propose the phrase **AND THE COURT OF APPEALS.**

The reason I would like to add the words **AND THE COURT OF APPEALS** is that there are so many divisions in the Court of Appeals, vis-a-vis the Supreme Court, which have clogged dockets now in the Supreme Court. I do not know if this is acceptable again to the author of the bill. If not, I will withdraw my amendment again.

SUSPENSION OF SESSION

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

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

It was 5:00 p.m.

RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

The President. The session is resumed. Senator Barbers may proceed.

Senator Barbers. Thank you, Mr. President.

Again, I am withdrawing my proposed amendment to Section 3, by reason again of our being partymates and under pain of expulsion from the party, again, Mr. President.

Thank you very much.

The President. The proposed amendment of Senator Barbers is withdrawn.

Senator Cayetano. Mr. President, I wish to thank my colleague, Senator Barbers, for listening to the salutary purpose of this bill, where one of the authors is our senior colleague in this Chamber, Sen. Juan M. Flavie.

Thank you, Mr. President, and I also would like to thank Senator Barbers.

The President. Senator Roco is recognized.

Senator Roco. Yes, Mr. President, before it becomes an all-Lakas affair; as a minority member of the majority coalition, let me also try to participate. I am just getting my time to straighten out in my mind what the bill or the metamorphosis of the bill is. Right now, may I just get confirmations from the chairman?

The substitute bill which is already approved has deleted the original Sections 4, 5, 6, 7 and 10, and transposed Section 5 into a definition under Section 3. Would this be the result of all these amendments, Mr. President?

Senator Cayetano. That is right, Mr. President.

Senator Roco. And the new Section 4 really is a restatement of the old Section 8.

Senator Cayetano. Yes, that is right.

Senator Roco. In the meantime, Mr. President, when I was interpellating, I did ask for two sets of data. One was on the view of the Supreme Court on the matter, if it was solicited; the other one was the updated data on the docket of the Supreme Court because, since we are restricting TRO to the Supreme Court, we can see that even the effort to expand it to the Court of Appeals was withdrawn by Senator Barbers. We shall have a stampede for restraining orders with the Supreme Court.

So may we just have access to the answers to the two questions. I did ask these in the interpellations stage.

Senator Cayetano. Thank you, Mr. President.

My esteemed colleague would recall that I answered the first one. I said that during the public hearing of these several bills, the Office of the Court Administrator was invited but he did not attend. Therefore, I advised my esteemed colleague, and I think the *Journal* will bear me out that the Supreme Court was not heard as far as these bills are concerned.

Now, with respect to the information on the case load, I do have some figures here, Mr. President, provided by the Deputy Clerk of Court, Chief Judicial Records Office of the Supreme Court. This is a partial report as of June 30, 2000.

Cases filed - 1,938. There is no information from what my staff has gathered of the totality, from let us say, way back the previous years. What was given to us here, as I said, is a partial report as of June 30, 2000. Meaning, from January, February, March, April, May, and June cases were filed with a total number of 1,938.

According to this information, of this number, cases calendared for deliberation, 315; cases submitted for decision, 34. As far as the court is concerned, what is either calendared or submitted for decision, of these total cases is 349. But how many—I mean the totality of the number—I am afraid, we were not provided with that. Apparently, there is no record.

Senator Roco. Mr. President, I would suggest to our distinguished colleague, that the Court Administrator probably has this on file.

Senator Cayetano. No, Mr. President, we did not ask the office. The employees of this office said they have only the pending cases of the lower courts.

Senator Roco. And they have no consciousness on record as to how many cases the Supreme Court is now handling.

Senator Cayetano. I do not know if they have any consciousness but... We tried, in fact, to get the number of cases first from the OCAD, from the Office of the Court Administrator and this is the information we got. So we went straight to the Office of the Clerk of Court.

Senator Roco. I am just a little bit surprised, Mr. President, that the Supreme Court does not have the data. I am under the impression that it has this as an existing data—the total case load. It is impossible for any court not to have knowledge of its case load. And this is a new law, therefore, in the efficiency of the Supreme Court and if that is the

efficiency of the Supreme Court, I mean, how can we give it additional work? It cannot even keep track of the cases that it is handling now.

Senator Cayetano. I do not know, Mr. President. I just read to my esteemed colleague what was provided us. We did, in fact, ask for the totality of the number of cases that are pending and these are the numbers that we were given.

Senator Roco. I really beg the indulgence of our committee, Mr. President. As much as possible, I would like to support this bill but... May we just get that data? I find it impossible. I am sure when the Senate President was secretary of Justice, he had copies. When we were in the Committee of Justice, it took all of one day, 24 hours, for the employees to put it together with categories. It is very easy to get a *certiorari* and *mandamus*. I do not know why it is not available now unless the office has depreciated over the past five years.

But if the office has, Mr. President, let us not give it additional work.

Senator Cayetano. I do not know about that particular information, Mr. President. We do have, and as I said earlier, the totality of the pending cases all over the land from the lower courts to the Court of Appeals. But I am afraid, as of this moment, my information is limited to what is provided us. In fact, I can furnish the esteemed gentleman this table.

Senator Roco. I appreciate that, Mr. President. May I just make a request of the committee: No. 1, since we have approved a substitute bill, may we have a clean copy without all these brackets because it is no longer needed? It is a substitute bill. So we will have a short and simple bill with four or five sections. All the brackets, since they have been eliminated by substitution, then we can see very clearly now what we are talking about.

The President. Except that, Senator Roco, some members of the Chamber may want to know what was deleted and may want to reinstate those deletions in the period of amendments.

Senator Roco. But the procedure of the Majority Leader, Mr. President, was to accept it as a substitute bill. So it is a totally new...

The President. Well, I leave that to the Majority Leader.

Senator Roco. Yes, Mr. President. Then, it is simpler.

No. 2, Mr. President, I really would ask for the data because it is very difficult to... And somebody in the Supreme

Court shall explain if its employees cannot tell us how many cases they are handling. I would really earnestly request the committee to get that officially, if the committee has to write the Supreme Court Chief Justice, because I find it incredible that the office does not know.

Senator Cayetano. We will try again, Mr. President.

Senator Roco. Yes.

Senator Cayetano. If my esteemed colleague may continue his comments or amendments, I certainly will promise him probably a more detailed information about the case load of the Supreme Court.

Senator Roco. It is very critical, however, Mr. President, to the study of the bill.

I understand, Mr. President, that there is—or maybe I should ask an open-ended question. The new Section 3, how different is this from Presidential Decree No. 1818? The one on page 4.

Senator Cayetano. Presidential Decree No. 1818 enumerates what type of controversies or disputes are covered by PD No. 1818.

In Section 3 of the bill under consideration, it does not enumerate these particular disputes contrary to PD No. 1818, although it speaks of infrastructure project as the same as that of PD No. 1818. But over and above that, it also makes it very clear that this Section 3 also covers right-of-way and/or site or location of any government infrastructure project which again is not clear in Section 1 of PD No. 1818.

Finally, Mr. President, Section 3 covers for the first time projects under Republic Act No. 7718, otherwise known as the Build-Operate-Transfer Law.

Senator Roco. But essentially, it is PD No. 1818 which has the details on the right-of-way.

Senator Cayetano. Essentially, we might say that, Mr. President.

Senator Roco. With the addition of the BOT Law.

Senator Cayetano. Yes, Mr. President.

Senator Roco. May we ask, Mr. President, if the committee will accept an itemization of what is covered in the BOT law because we may not want to exempt some of the BOT matters from the same order. I do not have the...

Senator Cayetano. I have it here, Mr. President. As we all know, the BOT law enumerates a number of modes where technical and financial assistance would be provided by private enterprises for the financing, construction, operation and maintenance of infrastructure projects.

Of course, the very first one is the so-called build-operate-and-transfer. I think there is no doubt that that ought to be covered. We have also the build-and-transfer. We also have build-own-and-operate; build-lease-and-transfer; build-transfer-and-operate. We have contract-add-and-operate. We have develop-operate-and-transfer. We have rehabilitate-operate-and-transfer. We have rehabilitate-own-and-operate. We have this unsolicited proposal scheme, Mr. President. So, unless I can get from my good and esteemed friend his proposal to eliminate any of these, I certainly would like to listen.

Senator Roco. The phraseology now, Mr. President, prevents a restraining order or a mandatory injunction that will prevent or suspend the holding of public biddings or award of contracts.

Senator Cayetano. Yes, Mr. President.

Senator Roco. I take it that that is a conscious limitation. How about direct negotiation of contracts when nobody qualifies? Can that be subject to a restraining order?

Senator Cayetano. I would not consider that as part of this bill because where there is failure of bidding and there is only one bidder left and the law allows negotiation, I think that will be outside the scope of this particular bill.

Senator Roco. So, direct negotiations may be restrained.

Senator Cayetano. Assuming that direct negotiation is allowed by law under certain circumstances.

Senator Roco. I am just looking at RA No. 7718, the amendments to RA No. 6957 and Section 5(a) appear to add direct negotiation of contracts when nobody bothers. In fact, very few have bothered really to bid in the BOT.

Senator Cayetano. Where is this, Mr. President? Is it Section 5(a)?

Senator Roco. Section 5(a), I think, Direct Negotiations. "Direct negotiations shall be resorted to when there is only one complying bidder."

Senator Cayetano. Yes, because, as my esteemed colleague would note, there are certain conditions where we may have direct negotiation of contract. It is there in the law.

Senator Roco. What I am suggesting, Mr. President, is that if the justification of this bill is precisely to facilitate the implementation, we cannot prevent public bidding. That is all right. If there is a public bidding, there is an award and we cannot prevent the award. At the same time, if there is only one who qualifies and it is so important to have the infrastructure, then neither should we prevent direct negotiations because that is where the bureaucracy or the attempt to inhibit or prevent the infrastructure from being pursued can happen. Would direct negotiation of contracts also not be covered by the "No TRO Rule?"

Senator Cayetano. The way my esteemed colleague puts it, certainly we would like to include that in that sense.

Senator Roco. Yes, Mr. President.

Senator Cayetano. Mr. President, the only reason I said this was not included is that I see no impediment in a situation where direct negotiation is allowed by law. But my esteemed colleague is correct that since we do not want an impediment or a delay, this might as well be covered. In that sense, yes, I take favorably the comment.

ROCO AMENDMENTS

Senator Roco. If an amendment in line 25 may be accepted, subject to style, Mr. President, it says—I am reading from line 24 "or to stop, prevent or in any manner suspend the holding of public bidding, comma (,)" — instead of the word "or"—"award of contracts or direct negotiation of contract involving projects under RA No. 7718." Actually, I think, it should be RA No. 6957, as amended by RA No. 7718.

Senator Cayetano. Is this under Section 5(a)?

Senator Roco. Yes, Mr. President. "Otherwise known as the Build-Operate-Transfer law." If that may be accepted.

Senator Cayetano. It is accepted with pleasure, Mr. President.

The President. The Roco amendment, I assume, subject to style, has been accepted by the sponsor.

Senator Cayetano. Yes, Mr. President.

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

Senator Roco. Now, Mr. President, in Section 2, again subject to style, I propose an additional sentence to the

Declaration of Policy. But the concept is lifted from Section 6 of Article 12, that the use of property versus social function and all economic agents shall contribute to the common good. So an appropriate sentence, can be crafted in the declaration of policy that this bill is pursuant to the constitutional recognition that the use of property versus social function and all economic agents shall contribute to the common good. Again, I am just giving more rationalization to the bill because it looks to me as the best justification for inhibiting restraining orders.

The President. What does the sponsor say?

Senator Cayetano. Once again, I accept the proposed amendment by insertion. I fully agree, Mr. President, with the rationale of that amendment. I accept it with thanks.

The President. The amendment, subject to style, has been accepted. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Roco. Thank you, Mr. President. Now, a final proposed amendment on page 4, between lines 27 and 28, insert the words to the following effect so that it becomes an additional paragraph:

THE SUPREME COURT SHALL RETAIN THE OPTION AND THE EXERCISE WITH SOUND DISCRETION AND CONSIDERING ATTENDANT CIRCUMSTANCES, EITHER TO ASSUME JURISDICTION OVER THE CASE, DISPUTE OR CONTROVERSY INVOLVING AN INFRA-STRUCTURE PROGRAM OF THE GOVERNMENT OR REFER IT TO THE COURT OF APPEALS FOR DETERMINATION. It is a mestizo of the Barbers' proposal.

I am just giving an administrative way out of the Supreme Court so that it may just say: "Okay, this one is referred automatically to the Court of Appeals." I mean...

Senator Cayetano. I accept the amendment, Mr. President, with pleasure and with thanks.

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

Senator Roco. With those, Mr. President, we are thankful for the patience and the understanding of the committee. But before acting further on this—I hope it is not closed—we would really appreciate the data.

Thank you, Mr. President.

Senator Tatad. Mr. President, I ask that Senator Pimentel be recognized for some proposed amendments.

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

Senator Pimentel. Thank you very much, Mr. President. I would just like to try to make a suggestion that will enable me to vote for this bill.

My concern, as I explained in an earlier interpellation of the sponsor, is the fact that it looks like the simple man living in the Cordilleras or in Tawi-Tawi or in the boondocks of Bukidnon, for example, would have difficulty to seek a redress and immediate redress for his grievance if there should be an abuse on the part of those who are executing government infrastructure projects, Mr. President.

Having that in mind, would it be possible for the sponsor to accept an amendment to allow a Regional Trial Court authorized by the Supreme Court to hear petitions for temporary restraining orders rather than requiring the people concerned to go all the way from the remote places of the Philippines to Manila and argue or file their case before the Supreme Court?

I have been mulling over this for sometime. The idea is to enable the people to have some immediate redress of their grievances at the place where they are staying and not to compel them to go all the way to Manila to seek that redress.

Senator Cayetano. Before I reply to the suggestion of our esteemed colleague from Cagayan de Oro, let me just say that earlier the Minority Leader voiced out almost a similar concern about a poor public schoolteacher who owns a small house and lot that might be grabbed by the Department of Public Works and Highways for so-called public use. Therefore, it would be difficult for this poor public schoolteacher to go to the Supreme Court to get a TRO.

The record will bear me out that in agreeing to put some kind of a caveat, subject to style, in order to protect this public schoolteacher, this representation said, in reply to the Minority Leader, that if that house and lot of the public schoolteacher would be taken by any government agency without an agreement for a voluntary sale or an agreement for a donation, or failure of negotiation, and that the agency did not go to court, in a situation like that, certainly that is not covered by this particular bill. Certainly, that will be outside of this bill because the law on expropriation, and even the law on eminent domain as contained in the Bill of Rights, envisions certain due process where expropriation can be undertaken.

SUSPENSION OF SESSION

With that as a background, Mr. President, I move that we suspend the session for one minute.

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

It was 5:28 p.m.

RESUMPTION OF SESSION

At 5:30 p.m., the session was resumed.

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

PIMENTEL AMENDMENT

Senator Pimentel. Mr. President, after that short break, I think we have been enlightened by the Holy Spirit coming through the Senate President in the sense that it is really possible that we can create a situation where the Supreme Court would retain the power to issue temporary restraining orders over certain issues involved in these government projects that are being undertaken throughout the nation. But it may also designate certain or specific regional trial courts throughout the nation to act as commissioners to receive the facts, which will then be forwarded to the Supreme Court for appreciation and then action. That is the concept that I would like to introduce as an amendment to this bill.

Senator Cayetano. Mr. President, as my esteemed colleague said, the Holy Spirit has descended upon us and as big and as handsome as the Senate President. Certainly, with the statement of my esteemed colleague from Cagayan de Oro, I do accept in principle that proposition, and subject to style, we will try to write it in the appropriate section, with the understanding that it is really the Supreme Court only that may issue the TRO but subject to the conditions that my *compañero* from Cagayan de Oro refers to.

With that, I accept the amendment, Mr. President.

Senator Pimentel. Thank you very much, Mr. President. With that acceptance, I will also vote in favor of this bill.

The President. The amendment has been accepted. Is there any objection? *[Silence]* There being none, the Pimentel amendment is approved.

Senator Roco. Mr. President.

The President. Senator Roco is recognized.

Senator Roco. *Huling hirit*, Mr. President.

Because of the discussion, I had time to compare Presidential Decree No. 1818 which has already been accepted as

valid and sanctified by the Supreme Court as valid. I have compared PD No. 1818 with the present bill, and I noticed that PD No. 1818...

SUSPENSION OF SESSION

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

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

It was 5:33 p.m.

RESUMPTION OF SESSION

At 5:34 p.m., the session was resumed.

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

Senator Roco. Mr. President, Section 1 of PD No. 1818, the presidential decree which has already been ruled on by the Supreme Court, reads: "No court in the Philippines," and there is no proviso about "except the Supreme Court" which is better.

Since this has already been ruled on, may we ask the committee if we may just delete the proviso "except the Supreme Court", it being understood that we cannot diminish the powers of the Supreme Court and therefore the Supreme Court will always have that power. Therefore we will have no problems also in recreating the judicial rulings.

So by deleting the proviso "except the Supreme Court," Mr. President, it might even improve. So it will be a repeat of the first sentence of Presidential Decree No. 1818. Will that be an appropriate amendment?

Senator Cayetano. Mr. President, the phrase "except the Supreme Court" is merely a reiteration of what the legislative body cannot do under the Constitution, but certainly there is no harm in deleting this particular phrase.

This representation believes, however, Mr. President, that the Supreme Court may even be pleased with our categorical statement that we are not, in any way, insinuating that it may not issue any TRO or preliminary injunction vis-a-vis infrastructure projects.

So either way, Mr. President. I really have no hard emotion on this. If my esteemed colleague would strongly propose the deletion of that phrase, I will certainly accept it.

Senator Roco. I have been persuaded by the arguments of our distinguished sponsor that because of PD No. 1818, we have no legal problems. So the best way maybe is to adhere to the wordings of PD No. 1818.

There is another reason, Mr. President. Under the repealing clause, all decrees inconsistent with the Act are modified. So what we do is we recreate new issues which we do not have to debate anymore in the Supreme Court if we just adhere to wordings that were already there.

The President. The Minority Leader raised his hand earlier. Senator Guingona is recognized.

Senator Guingona. Mr. President, we would like to suggest an observation that the Supreme Court only acts on appeal on certain issues raised in the lower courts. If we do not say anything in this bill, it does not mean that we are recognizing the fact that the Supreme Court has that inherent power. But where would the remedy be of the right of a citizen to file a case in the lower courts appropriately and elevate it to the Supreme Court on *certiorari*?

Senator Roco. May I answer, Mr. President?

If we delete the phrase "except the Supreme Court", Mr. President, we revert to the circular of the Supreme Court which recognizes the validity of Presidential Decree No. 1818.

In which case, Mr. President, all jurisprudence also adhere so it is really better off. Because under the Supreme Court rulings, one can even reach the conclusion that under extreme circumstances, the Regional Trial Court may still issue but the Supreme Court frowns on it. So the Regional Trial Court is forewarned that in doing so, it better exercise very extremely well thought-out judgment otherwise it will get slammed. And I know for a fact that several judges have already been dismissed because of that.

I am trying to be helpful, Mr. President. But since PD No. 1818 is sanctified, let us use the words of PD No. 1818.

SUSPENSION OF SESSION

The President. With the permission of the Chamber, may the Chair ask for a one-minute suspension of the session, if there is no objection? *[There was none.]*

It was 5:40 p.m.

RESUMPTION OF SESSION

At 5:43 p.m., the session was resumed.

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

ROCO AMENDMENTS

Senator Roco. Mr. President, having been persuaded in the quiet caucus, may we now amend our proposed amendment. Instead of focusing on Section 3, may we propose an amendment to Section 8, the Repealing Clause. So that the Repealing Clause shall say: "All laws, decrees SPECIALLY PRESIDENTIAL DECREE NO. 1818, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly."

Senator Cayetano. Mr. President, as I explained during the quiet caucus, since the definition of the term "government infrastructure project" is much broader than that covered in Section 1, I wholeheartedly and with thanks accept the amendment.

Senator Roco. Yes, Mr. President.

So to that extent, Mr. President, it is understood by those who will look at the legislative intent that some acts enumerated in PD No. 1818 are now expressly repealed.

Senator Cayetano. No, Mr. President. I would like to reiterate my previous statement, before I accepted the amendment, that the present definition of "infrastructure project" as contained in the bill is much broader than what appears in Section 1 of PD No. 1818 and therefore I accepted that amendment.

Senator Roco. So if it appears in PD No. 1818 and it is not repeated here in this bill, we take it that it is repealed.

Senator Cayetano. I beg the gentleman's pardon, Mr. President.

Senator Roco. I guess it is repealed because it is no longer consistent. One must choose. There are some things in PD No. 1818 that are inconsistent with the present bill because they are not, in fact, enumerated. So the enumerated activities which are restrictive under the understanding of the gentleman like "mining, fishery, forest, other natural resource development projects of the government" or similar enumerations are now expressly repealed, Mr. President.

Senator Cayetano. These are expressly repealed because these are covered by the definition of what constitutes "infrastructure project" under the bill, Mr. President.

Senator Roco. Yes, Mr. President, whatever the new definition may cover because that definition under PD No. 1818 is

already sanctified by the Supreme Court. But we are now replacing that consciously with the definition under Section 5 of what a "government infrastructure project" is.

Senator Cayetano. As I said, Mr. President, the present definition of what constitutes "government infrastructure project"—and I cannot always emphasize this with the indulgence of our distinguished colleague—is broader than what is enumerated in Section 1 of PD No. 1818. Under that consideration, I accepted the amendment.

Senator Roco. Let me be very clear, Mr. President. Whether it is broader, narrower or whatever, this is a matter of judgment.

What is enumerated in PD No. 1818 that is not now enumerated in this bill, whether it is covered generically by the term "government infrastructure project" is repealed. This is what we seek to clarify.

Senator Cayetano. Mr. President, I hope my statement is quite clear. I said I only accepted the amendment because what was enumerated in Section 1 of PD No. 1818 is already covered by the definition of what constitutes "government infrastructure project." I want this to be very clear because, as we all know, the debates in this bill will be a source of reference of what the legislative intent is on what is covered by the term "government infrastructure project." Certainly, to the mind of this representation, all of these under Section 1 of PD No. 1818, plus the others are covered by the definition of what is now found in the new bill.

Senator Roco. Mr. President, it is better that we debate it here than in the Supreme Court. But let me try to put that together again.

Section 1 of PD No. 1818 states: "No court in the Philippines shall have jurisdiction..." I thought that by just depriving jurisdiction, nobody can issue a restraining order, preliminary injunction or preliminary mandatory injunction in any case, dispute or controversy involving an infrastructure project.

Then it continues to enumerate: "...or a mining" which is different from infrastructure, "fishery, forest or other natural resource development project of the government or any public utility operated by the government including, among others, public utilities for the transport of goods or commodities, stevedoring and arrastre," et cetera.

Mr. President, those enumerations follow the term "infrastructure project" which will define "government infrastructure project." That definition says:

THE TERM "GOVERNMENT INFRASTRUCTURE PROJECT" REFERS TO ALL LOCALLY AND/OR INTERNATIONALLY FUNDED INFRASTRUCTURE WORKS, SERVICE CONTRACTS AND OTHER RELATED AND NECESSARY ACTIVITIES SUCH AS IMPLEMENTATION, CONSTRUCTION, COMPLETION, OPERATION, MAINTENANCE, IMPROVEMENT, REPAIR AND REHABILITATION OF SAID INFRASTRUCTURE WORKS, UNDERTAKEN BY THE NATIONAL GOVERNMENT, ITS AGENCIES AND INSTRUMENTALITIES INCLUDING GOVERNMENT OWNED AND CONTROLLED CORPORATIONS AND LOCAL GOVERNMENT UNITS, AND ALL PROJECTS COVERED UNDER THE BUILD-OPERATE-TRANSFER LAW.

That should be modified, Mr. President.

In any event, it is clear that there is an inconsistency in the enumeration. There is a meaning read by the chairman, but how legislators read meaning into words, according to the Supreme Court, is really largely irrelevant. We must look at the words and what they mean in the normal sense.

So I am asking the committee to look at it carefully because in the repealing clause, we shall now remove the other enumeration to the extent that it is not covered by the term "infrastructure project." And we will all be happy with that, Mr. President, if that is the wish.

Now, we could also be happy on the reverse. If we use the same words as in PD No. 1818, then I can see how I can be happier. But my colleague here, Senator Pimentel, will be unhappy.

It is a question, Mr. President, of where we are safer. So I leave it to the committee. If he does not want the wordings of PD No. 1818, then we must modify the repealing clause. If he is amenable to the wordings of PD No. 1818, then we will leave it as it is.

Senator Cayetano. That is why, Mr. President, I did try to explain why I would accept the proposed amendment, meaning, the totality of the repeal of PD No. 1818 which is not found in the original version of the bill, because of my earlier explanation that the definition of the term "government infrastructure project" covers all of those enumerated in Section 1 of PD No. 1818. And the reason for that, as we know, is we do not know what else could be considered government infrastructure project in the next 10 or 20 years.

When this PD No. 1818 was adopted by President Marcos 20 years ago, it never contemplated reclamation of foreshore land. And yet in *Garcia vs. Burgos*, the Supreme Court held in that case that the word "infrastructure project" covers

reclamation of foreshore land. So, using the Latin maxim of *expressio unius est exclusio alterius*, which means what is expressly mentioned is tantamount to an express exclusion of the others, this is the reason we did not include particularly an enumeration of certain activities of the government found in Section 1 of PD No. 1818. Because to do that, it may be a good excuse for a brilliant lawyer to say, "Well, you know, since it does not cover this particular activity, ergo, the Regional Trial Court may issue a TRO."

So, this is Mr. President, the reason under Section 5 of this bill, we did not enumerate these particular activities and used a general term "government infrastructure project," referring "to all locally and/or internationally funded infrastructure works, service contracts and other related and necessary activities such as implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation of said infrastructure works, undertaken by the national government, its agencies and instrumentalities including government-owned and controlled corporations and local government units, and all projects covered under the Build-Operate-Transfer Law."

Senator Roco. No, I have no quarrel with the definition of "government infrastructure project." When we were in the Integrated Bar of the Philippines, we were conscious that one of the causes of clogging the dockets was precisely that the lawmakers were creating laws that fomented litigation. So I am trying to avoid this consciously. When we say "government infrastructure project," is it the position of the sponsor that mining is a government infrastructure project?

Senator Cayetano. No, not necessarily, Mr. President. But it is covered by the term "service contracts." When we have service contracts, normally, it covers mining, utilities, oil or gas.

Senator Roco. If these are service contracts—but mining by a private entity is mining—I am just pinpointing that this representation, for whatever limited understanding he has of this language, can see that fishery, for instance, is not a government infrastructure project by any chance. Fishery, is this covered? Or shall we now comprehend "government infrastructure project" to include the fishermen in the Pacific Ocean? Obviously, fishery cannot be considered a government infrastructure project.

Senator Cayetano. Mr. President, it may fall under "infrastructure works" depending, of course, on the intent of the government. It may be undertaken by a private individual. But if it is undertaken on behalf of the government providing financing and technical know-how, it could be covered. I cannot think of any specific example.

Mr. President, the point we are discussing here—and I wish again to beg the indulgence of my esteemed colleague—is whether or not the exclusion of the enumerated activities in Section 1 of PD No. 1818 would mean that it is no longer covered by the definition of what constitutes "government infrastructure project" under Section 5 of the bill. My reply to that is, it does. My proposition is that this is a much broader term than what is used in Section 1. That is the reason I finally opted to accept the proffered amendment of my esteemed colleague.

Senator Roco. Let me try to focus, Mr. President, on something that maybe we can agree on.

In line 12, page 5, it says, "AND ALL PROJECTS COVERED UNDER THE BUILD-OPERATE-TRANSFER LAW". May we just add the word "GOVERNMENT"—"GOVERNMENT project"? We are referring to government projects here. May we add the word "GOVERNMENT"? Because under the BOT Law, under private projects, everything is by a private individual who just has a line with some big banks, et cetera.

I do not know that our bill envisions preventing restraining orders even from private individuals. It will be a repeat of what could have happened in the EPZA where because somebody has money, he is therefore exempted from law.

I understand from the definition under Section 5 that we refer here to government projects under the Build-Operate-Transfer Law. Will that be an acceptable word, Mr. President? After all, we are defining "government infrastructure project."

Senator Cayetano. Mr. President, before I reply to the proposed amendment, let me just say that while it is true that the Build-Operate-Transfer Law envisions the private initiative in providing technical, financial and other required elements for the construction or maintenance of whatever infrastructure, nevertheless, at the end of the day, this project is for the government and on behalf of the people.

Therefore, if we insert the phrase "and all government projects covered under the build-operate-transfer law", then we are going to defeat the very purpose of including all these possible projects under different contracts under the Build-Operate-Transfer Law.

Senator Roco. Mr. President, if we put in government projects, that is really what is intended to be covered by the bill. I would imagine we do not intend to cover private projects by other individuals. The build-operate-and-transfer project may be conducted by a private individual, but it must first be a government project. Because if building a road going up

Mt. Isarog is not authorized under any of the public infrastructure programs of the government, nobody should be authorized to build such a road simply because he has the money or the wherewithal to build such a road, unless the government allows him to. Implementation may be by private, I understand, but the project must be government.

Senator Cayetano. May I be enlightened. The amended insertion is in line 12.

Senator Roco. Line 12, just the word GOVERNMENT.

Senator Cayetano. Insert the word GOVERNMENT.

Senator Roco. Yes, Mr. President.

The President. May the Chair intervene? If the Chair recalls correctly, there was a proposed previous amendment on the repealing clause which was being accepted by the sponsor but there was a debate on the interpretation. May the Chair know if that was withdrawn? What is the status before we go to the next amendment?

Senator Roco. I will withdraw temporarily that amendment, Mr. President, because it will be affected by this one.

The President. All right. So the amendment which was accepted is temporarily being withdrawn.

Senator Roco. Yes, Mr. President.

The President. Now, there is a new amendment being proposed by Sen. Raul S. Roco. For clarity, may we ask that the same be repeated for the record?

Senator Roco. Just the word GOVERNMENT on line 12 to modify the word "PROJECTS".

Senator Cayetano. Yes, Mr. President. That is one amendment that I would be happy to accept because, after all, as the proponent said, the Build-Operate-Transfer Law, although privately initiated and financed, is nevertheless intended for the government. So I accept, with thanks, the amendment by inserting the word GOVERNMENT before the word "PROJECTS" in line 12.

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

Senator Roco is again recognized.

Senator Roco. Thank you, Mr. President,

Now, for our original proposed amendment. In the repealing clause we modify this, so that we say, in the specific bill "All laws, PRESIDENTIAL decrees, ESPECIALLY PD No. 1818, orders, rules, and regulations...inconsistent with this Act are hereby repealed or amended accordingly."

The President. What does the sponsor say?

Senator Cayetano. Let me try to repeat what the proposed amendment is.

Senator Roco. Yes, Mr. President.

Senator Cayetano. It says here, "All laws, PRESIDENTIAL decrees," PARTICULARLY PD No. 1818...

Senator Roco. In fact, may the gentleman want to include PD No. 605?

Senator Cayetano. Pardon?

Senator Roco. The gentleman may want to include PD No. 605 as well. No, that will not be affected, generally or specifically. It is just better practice, Mr. President, to be specific in the repealing clause. The two presidential decrees that are now involved in this subject are PD Nos. 605 and 1818. So, if we must have a repealing clause instead of generally phrased, we say: "All laws, presidential decrees, PARTICULARLY PD No. 1818..." Or there is rule, et cetera.

Senator Cayetano. "Inconsistent." As long as we retain the word "inconsistent", Mr. President.

Senator Roco. Yes, Mr. President.

DRILON-ROCO AMENDMENT

The President. May the Chair suggest that instead of the word PARTICULARLY, we use the word INCLUDING.

Senator Roco. INCLUDING "decrees, INCLUDING Presidential Decree Nos. 605 and 1818..." All the others remain.

Senator Cayetano. Yes, as long as we retain the word "inconsistent". Because, as I said, it is not inconsistent as far as the bill is concerned.

Yes, I accept, with pleasure again, the amendment of the gentleman from Camarines Sur.

The President. The Roco amendment, as amended by the Chair, is accepted by the sponsor. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Roco. Yes, Mr. President. I can take only so much pleasure, so I will refrain from introducing further amendments.

Thank you very much for the indulgence and the patience of the gentleman.

Senator Cayetano. Thank you, Mr. President.

Senator Tatad. Mr. President, there are no further amendments at this point. I move that the period of amendments be closed.

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

Senator Tatad. May we request the Secretariat to prepare a clean copy of the bill for immediate distribution to the senators so that by Monday we could approve it on Second Reading.

The President. All right. The Secretariat is so directed.

SUSPENSION OF CONSIDERATION OF S. NO. 2038

Senator Tatad. 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.

Senator Tatad. Mr. President, for the privilege hour, which is very brief, I ask that the distinguished Assistant Majority Leader, Sen. Vicente C. Sotto III, be recognized.

The President. Sen. Vicente C. Sotto III is recognized for the privilege hour.

Senator Sotto. Thank you, Mr. President. I beg the indulgence of our colleagues for this relatively short privilege speech which I was supposed to have delivered two weeks ago, but being the Acting Majority Leader, I avoided monopolizing the time of the Senate. Therefore, I had the taste of the predicament that the Majority Leader has now.

Again, I beg the Chamber's indulgence. This is a timeless issue, and so I thank this Body for this opportunity to deliver this now.

PRIVILEGE SPEECH OF SENATOR SOTTO (Lupang Hinirang)

Mr. President, the challenges our country currently faces

bring to my mind the need of a rallying cry to again unite our people in overcoming the obstacles that beset us. The current events made me think back the seemingly petty issues that surround the proposal to revise our national anthem, *Lupang Hinirang*.

While it is indeed crucial to immediately address the practical problems affecting the nation, like the MILF insurgency and Abu Sayyaf banditry in Mindanao, the natural calamities and the economic struggle we are currently engaged in, we should not let issues that affect the soul of our national sovereignty be relegated to the back seat and be treated as trivial or just a play of semantics not worthy of notice.

Lately, there have been moves by some quarters to revise and amend our national anthem due to their allegation that it is a mistranslation of the original Spanish lyrics and is already anachronistic to the present times.

Mr. President, is there really a need to change it?

The national anthem was a product of the struggle waged by the Filipinos in the fight for our independence. The conception of our national anthem must never be viewed as separate from the whole process in gaining our independence. The roots of our anthem is intertwined with the dynamics of our revolutionary history and of our countrymen who bravely waged the revolution that made us the first republic in Asia.

Mr. President, different versions had sprouted on the story how the music of the national anthem came about and how it became the official anthem of the new republic. I think our historians have different perspectives, depending on their biases and, maybe, even due to the methods they used in extracting the needed data. Some would say that it was the leadership factor that determined the anthem we have now. What if Andres Bonifacio became the first president instead of Emilio Aguinaldo? Then we could be singing a very different anthem from what we have today.

In an article by historian Ambeth Ocampo, he wrote that Gat Andres Bonifacio commissioned a certain Julio Nakpil to work on a possible anthem for the then fledgling "would-be republic." Mr. Nakpil was able to compose a short martial tune entitled *Marangal na Dalit ng Katagalugan* that speaks of the Filipino's victory over colonial Spain and a call to start the reconstruction.

But with the twist and turns of history, the death of the great plebeian, Andres Bonifacio, and the establishment of a revolutionary government under General Aguinaldo gave rise to the tune that would eventually become our national anthem.