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penalty of *RECLUSION PERPETUA.* Accused-appellants Noel Dela Cruz and Paul Rangasa shall suffer indeterminate sentence ranging from 8 years and 1 day of *prision mayor* as minimum to 14 years and 8 months of *reclusion temporal* maximum.[40] Further, accused-appellants are jointly and severally liable to pay the legal heirs of the victim, Benson Ocampo, in the amount of fifty thousand pesos (P50,000.00), as civil indemnity. Costs against accused-appellants.

SO ORDERED.

Narvasa, C.J. (Chairman), Regalado, Mendoza, and *Francisco, JJ.,* concur.

EN BANC

[G.R. No. 115455. October 30, 1995]

ARTURO M. TOLENTINO, *petitioner, vs.* THE SECRETARY OF FINANCE and THE COMMISSIONER OF INTERNAL REVENUE, *respondents.*

[G.R. No. 115525. October 30, 1995]

JUAN T. DAVID, *petitioner, vs.* TEOFISTO T. GUINGONA, JR., as Executive Secretary; ROBERTO DE OCAMPO, as Secretary of Finance; LIWAYWAY VINZONS-CHATO, as Commissioner of Internal Revenue; and their AUTHORIZED AGENTS OR REPRESENTATIVES, *respondents.*

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[40] People *vs.* Daquipil, G.R. Nos. 86305-06, January 20, 1995, 240 SCRA 314, 334; People *vs.* Regalario, G.R. No. 101451, March 23, 1993, 220 SCRA 368, 388.

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[G.R. No. 115543. October 30, 1995]

RAUL S. ROCO and the INTEGRATED BAR OF THE PHILIPPINES, *petitioners, vs.* THE SECRETARY OF THE DEPARTMENT OF FINANCE; THE COMMISSIONERS OF THE BUREAU OF INTERNAL REVENUE AND BUREAU OF CUSTOMS, *respondents.*

[G.R. No. 115544. October 30, 1995]

PHILIPPINE PRESS INSTITUTE, INC.; EGP PUBLISHING CO., INC.; KAMAHALAN PUBLISHING CORPORATION; PHILIPPINE JOURNALISTS, INC.; JOSE L. PAVIA; and OFELIA L. DIMALANTA, *petitioners, vs.* HON. LIWAYWAY V. CHATO, in her capacity as Commissioner of Internal Revenue; HON. TEOFISTO T. GUINGONA, JR., in his capacity as Executive Secretary; and HON. ROBERTO B. DE OCAMPO, in his capacity as Secretary of Finance, *respondents.*

[G.R. No. 115754. October 30, 1995]

CHAMBER OF REAL ESTATE AND BUILDERS ASSOCIATIONS, INC., (CREBA), *petitioner, vs.* THE COMMISSIONER OF INTERNAL REVENUE, *respondent.*

[G.R. No. 115781. October 30, 1995]

KILOSBAYAN, INC., JOVITO R. SALONGA, CIRILO A. RIGOS, ERME CAMBA, EMILIO C. CAPULONG, JR., JOSE T. APOLO, EPHRAIM TENDERO, FERNANDO SANTIAGO, JOSE

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ABCEDE, CHRISTINE TAN, FELIPE L. GOZON, RAFAEL G. FERNANDO, RAOUL V. VICTORINO, JOSE CUNANAN, QUINTIN S. DOROMAL, MOVEMENT OF ATTORNEYS FOR BROTHERHOOD, INTEGRITY AND NATIONALISM, INC. ("MABINI"), FREEDOM FROM DEBT COALITION, INC., and PHILIPPINE BIBLE SOCIETY, INC. and WIGBERTO TAÑADA, *petitioners, vs.* THE EXECUTIVE SECRETARY, THE SECRETARY OF FINANCE, THE COMMISSIONER OF INTERNAL REVENUE and THE COMMISSIONER OF CUSTOMS, *respondents.*

[G.R. No. 115852. October 30, 1995]

PHILIPPINE AIRLINES, INC., *petitioner, vs.* THE SECRETARY OF FINANCE and COMMISSIONER OF INTERNAL REVENUE, *respondents.*

[G.R. No. 115873. October 30, 1995]

COOPERATIVE UNION OF THE PHILIPPINES, *petitioner, vs.* HON. LIWAYWAY V. CHATO, in her capacity as the Commissioner of Internal Revenue, HON. TEOFISTO T. GUINGONA, JR., in his capacity as Executive Secretary, and HON. ROBERTO B. DE OCAMPO, in his capacity as Secretary of Finance, *respondents.*

[G.R. No. 115931. October 30, 1995]

PHILIPPINE EDUCATIONAL PUBLISHERS ASSOCIATION, INC. and ASSOCIATION OF PHILIPPINE BOOK SELLERS, *petitioners, vs.* HON. ROBERTO B. DE OCAMPO, as the Secretary of Finance; HON. LIWAYWAY V. CHATO, as the

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Commissioner of Internal Revenue; and HON. GUILLERMO PARAYNO, JR., in his capacity as the Commissioner of Customs, *respondents*.

SYLLABUS

1. **CONSTITUTIONAL LAW; LEGISLATURE; POWER OF THE SENATE TO PROPOSE AMENDMENTS TO REVENUE BILLS; S. NO. 1630 AS A SUBSTITUTE MEASURE TO H. NO. 11197.**— The enactment of S. No. 1630 is not the only instance in which the Senate, in the exercise of its power to propose amendments to bills required to originate in the House, passed its own version of a House revenue measure. Art. VI, § 24 of our Constitution reads: All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments. The power of the Senate to propose amendments must be understood to be full, plenary and complete "as on other Bills." Because revenue bills are required to originate exclusively in the House of Representatives, the Senate cannot enact revenue measures of its own without such bills. After a revenue bill is passed and sent over to it by the House, however, the Senate certainly can pass its own version on the same subject matter. This follows from the coequality of the two chambers of Congress. The provision "*but the Senate may propose or concur with amendments*" means the Senate may propose an entirely new bill as a substitute measure. To except from the procedure (Re: bill referred to a committee) the amendment of bills which are required to originate in the House by prescribing that the number of the House bill and its other parts up to the enacting clause must be preserved although the text of the Senate amendment may be incorporated in place of the original body of the bill is to insist on a mere technicality. At any rate there is no rule prescribing this form. S. No. 1630, as a substitute measure, is therefore as much an amendment of H. No. 11197 as any

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which the Senate could have made. In point of fact, in several instances the provisions of S. No. 1630, clearly appear to be mere amendments of the corresponding provisions of H. No. 11197. The very tabular comparison of the provisions thereof, while showing differences between the two bills, at the same time indicates that the provisions of the Senate bill were precisely intended to be amendments to the House bill. Without H. No. 11197, the Senate could not have enacted S. No. 1630. Because the Senate bill was a mere amendment of the House bill, H. No. 11197 in its original form did not have to pass the Senate on second and third readings. It was enough that after it was passed on first reading it was referred to the Senate Committee on Ways and Means. Neither was it required that S. No. 1630 be passed by the House of Representatives before the two bills could be referred to the Conference Committee.

2. ID.; ID.; PRESIDENT'S CERTIFICATION IN RELATION TO THE REQUIREMENT OF THREE READINGS ON SEPARATE DAYS BEFORE A BILL BECOMES A LAW; CASE AT BAR.— The President's certification had to be made of the version of the same revenue bill which *at the moment* was being considered. It is enough that he certifies the bill which, at the time he makes the certification, is under consideration. Since on March 22, 1994 the Senate was considering S. No. 1630, it was that bill which had to be certified. For that matter on June 1, 1993 the President had earlier certified H. No. 9210 for immediate enactment because it was the one which at that time was being considered by the House. This bill was later substituted, together with other bills, by H. No. 11197. As to what Presidential certification can accomplish, we have already explained in the main decision that the phrase "except when the President certifies to the necessity of its immediate enactment, etc." in Art. VI, § 26 (2) qualifies not only the requirement that "printed copies [of a bill] in its final form [must be] distributed to the members three days before its passage" but also the requirement that before a bill can become a law it must have passed "three readings on separate days." There is not only textual

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support for such construction but historical basis as well. This exception is based on the prudential consideration that if in all cases three readings on separate days are required and a bill has to be printed in final form before it can be passed, the need for a law may be rendered academic by the occurrence of the very emergency or public calamity which it is meant to address. The members of the Senate (including some of the petitioners in these cases) believed that there was an urgent need for consideration of S. No. 1630, because they responded to the call of the President by voting on the bill on second and third readings on the same day. While the judicial department is not bound by the Senate's acceptance of the President's certification, the respect due coequal departments of the government in matters committed to them by the Constitution and the absence of a clear showing of grave abuse of discretion caution a stay of the judicial hand. At any rate, we are satisfied that S. No. 1630 received thorough consideration in the Senate where it was discussed for six days. Only its distribution in advance in its final printed form was actually dispensed with by holding the voting on second and third readings on the same day (March 24, 1994). Otherwise, sufficient time between the submission of the bill on February 8, 1994 on second reading and its approval on March 24, 1994 elapsed before it was finally voted on by the Senate on third reading. The purpose for which three readings on separate days is required is said to be two-fold: (1) to inform the members of Congress of what they must vote on and (2) to give them notice that a measure is progressing through the enacting process, thus enabling them and others interested in the measure to prepare their positions with reference to it. These purposes were substantially achieved in the case of R.A. No. 7716.

3. **ID.; ID.; CONFERENCE COMMITTEE; CLOSE-DOOR MEETING; CONSTITUTIONAL RIGHT TO KNOW, NOT VIOLATED THEREOF IN LIEU OF REPORT SUBMITTED BY THE COMMITTEE.**— The public's right to know was fully served because the Conference Committee in this case submitted a report showing the

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changes made on the differing versions of the House and the Senate. These changes are shown in the bill attached to the Conference Committee Report. The members of both houses could thus ascertain what changes had been made in the original bills without the need of a statement detailing the changes. Nor is there any doubt about the power of a conference committee to insert new provisions as long as these are germane to the subject of the conference. As this Court held in *Philippine Judges Association v. Prado,* 227 SCRA 703 (1993), in an opinion written by then Justice Cruz, the jurisdiction of the conference committee is not limited to resolving differences between the Senate and the House. It may propose an entirely new provision. What is important is that its report is subsequently approved by the respective houses of Congress. This Court ruled that it would not entertain allegations that, because new provisions had been added by the conference committee, there was thereby a violation of the constitutional injunction that "upon the last reading of a bill, no amendment thereto shall be allowed." At all events, under Art. VI, § 16(3) each house has the power "to determine the rules of its proceedings," including those of its committees. Any meaningful change in the method and procedures of Congress or its committees must therefore be sought in that body itself.

4. **ID.; ID.; RA 7716 (EXPANDED VALUE-ADDED-TAX [VAT] LAW); REQUIREMENT THAT BILL SHALL EMBRACE ONLY ONE (1) SUBJECT EXPRESSED IN THE TITLE THEREOF, NOT VIOLATED IN CASE AT BAR; AMENDMENT OF SEC. 103 OF THE NATIONAL INTERNAL REVENUE CODE EXEMPTING THE PHILIPPINE AIRLINES (PAL) AND OTHERS FROM PAYING VAT EXPRESSED IN RA 7716, SUFFICIENT; SEPARATE STATEMENT AMENDING FRANCHISE, NOT NECESSARY.**— Art. VI, § 26 (1) of the Constitution provides that "Every bill passed by Congress shall embrace only one subject which shall be expressed in the title thereof." PAL contends that the amendment of its franchise by the withdrawal of its exemption

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from the VAT is not expressed in the title of RA No. 7716. PAL was exempted from the payment of the VAT along with other entities by 103 of the National Internal Revenue Code. Now, R.A. No. 7716 seeks to withdraw certain exemptions, including that granted to PAL, by amending § 103. Such amendment of § 103 is expressed in the title of R.A. No. 7716. Congress thereby clearly expresses its intention to amend any provision of the NIRC which stands in the way of accomplishing the purpose of the law. PAL asserts that the amendment of its franchise must be reflected in the title of the law by specific reference to P.D. No. 1590. It is unnecessary to do this in order to comply with the constitutional requirement, since it is already stated in the title that the law seeks to amend the pertinent provisions of the NIRC, among which is § 103(q), in order to widen the base of the VAT. Actually, it is the bill which becomes a law that is required to express in its title the subject of legislation. The titles of H. No. 11197 and S. No. 1630 in fact specifically referred to § 103 of the NIRC as among the provisions sought to be amended. We are satisfied that sufficient notice had been given of the pendency of these bills in Congress before they were enacted into what is now R.A. No. 7716.

5. **ID.; ID.; ID.; TAXATION AND FREEDOM OF THE PRESS, ELABORATED.**— As a general proposition, the press is not exempt from the taxing power of the State and that what the constitutional guarantee of free press prohibits are laws which single out the press or target a group belonging to the press for special treatment or which in any way discriminate against the press on the basis of the content of the publication, and R.A. No. 7716 is none of these. Since the law granted the press a privilege, the law could take back the privilege anytime without offense to the Constitution. The reason is simple: by granting exemptions, the State does not forever waive the exercise of its sovereign prerogative. Indeed, in withdrawing the exemption, the law merely subjects the press to the same tax burden to which other businesses have long ago been subject. And VAT is not a license tax. It is not a tax on the exercise of a privilege, much less a

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constitutional right. It is imposed on the sale, barter, lease or exchange of goods or properties or the sale or exchange of services and the lease of properties purely for revenue purposes. To subject the press to its payment is not to burden the exercise of its right any more than to make the press pay income tax or subject it to general regulation is not to violate its freedom under the Constitution.

6. ID.; ID.; ID.; TAXATION AND FREEDOM OF RELIGION IN CASE AT BAR.— The Philippine Bible Society, Inc. claims that although it sells bibles, the proceeds derived from the sales are used to subsidize the cost of printing copies which are given free to those who cannot afford to pay so that to tax the sales would be to increase the price, while reducing the volume of sale. Granting that to be the case, the resulting burden on the exercise of religious freedom is so incidental as to make it difficult to differentiate it from any other economic imposition that might make the right to disseminate religious doctrines costly. The registration fee imposed by § 107 of the NIRC, as amended by 7 of R.A. No. 7716, although fixed in amount, is really just to pay for the expenses of registration and enforcement of provisions such as those relating to accounting in § 108 of the NIRC. That the PBS distributes free bibles and therefore is not liable to pay the VAT does not excuse it from the payment of this fee because it also sells some copies. At any rate whether the PBS is liable for the VAT must be decided in concrete cases, in the event it is assessed this tax by the Commissioner of Internal Revenue.

7. ID.; ID.; ID.; TAXATION AND NON-IMPAIRMENT OF CONTRACTS.— "Authorities from numerous sources are cited by the plaintiffs, but none of them show that a lawful tax on a new subject, or an increased tax on an old one, interferes with a contract or impairs its obligation, within the meaning of the Constitution. Even though such taxation may affect particular contracts, as it may increase the debt of one person and lessen the security of another, or may impose additional burdens upon one class and release the burdens of another, still the tax must be paid unless prohibited by the

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Constitution, nor can it be said that it impairs the obligation of any existing contract in its true legal sense." Indeed not only existing laws but also "*the reservation of the essential attributes of sovereignty,* is . . . read into contracts as a postulate of the legal order." Contracts must be understood as having been made in reference to the possible exercise of the rightful authority of the government and no obligation of contract can extend to the defeat of that authority.

8. ID.; ID.; ID.; ON REAL ESTATE TRANSACTIONS; EQUALITY AND UNIFORMITY OF TAXATION; VALIDITY OF VAT.— CREBA claims that real estate transactions of "the less poor," i.e., the middle class, who are equally homeless, should be exempted. There is a difference between the "homeless poor" and the "homeless less poor" in the example given by petitioner, because the second group or middle class can afford to rent houses in the meantime that they cannot yet buy their own homes. The two social classes are thus differently situated in life. "It is inherent in the power to tax that the State be free to select the subjects of taxation, and it has been repeatedly held that 'inequalities which result from a singling out of one particular class for taxation, or exemption infringe no constitutional limitation.'" Equality and uniformity of taxation means that all taxable articles or kinds of property of the same class be taxed at the same rate. The taxing power has the authority to make reasonable and natural classifications for purposes of taxation. To satisfy this requirement it is enough that the statute or ordinance applies equally to all persons, forms and corporations placed in similar situation. Indeed, the VAT was already provided in E.O. No. 273 long before R.A. No. 7716 was enacted. R.A. No. 7716 merely expands the base of the tax. The validity of the original VAT Law was questioned on grounds similar to those made in these cases, namely, that the law was "oppressive, discriminatory, unjust and regressive in violation of Art. VI, § 28(1) of the Constitution." This Court held: EO 273 satisfies all the requirements of a valid tax. It is uniform. . . . The sales tax adopted in EO 273 is applied similarly on all goods and services sold to the public,

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which are not exempt, at the constant rate of 0% or 10%. The disputed sales tax is also equitable. It is imposed only on sales of goods or services by persons engaged in business with an aggregate gross annual sales exceeding P200,000.00. Small corner sari-sari stores are consequently exempt from its application. Likewise exempt from the tax are sales of farm and marine products, so that the costs of basic food and other necessities, spared as they are from the incidence of the VAT, are expected to be relatively lower and within the reach of the general public.

9. **ID.; ID.; ID.; VAT IS AN INDIRECT AND REGRESSIVE TAX WHICH IS NOT ACTUALLY PROHIBITED BY THE CONSTITUTION.**— The Constitution does not really prohibit the imposition of indirect taxes which, like the VAT, are regressive. What it simply provides is that Congress shall "*evolve* a progressive system of taxation." The constitutional provision has been interpreted to mean simply that "direct taxes are . . . to be preferred [and] as much as possible, indirect taxes should be minimized." Indeed, the mandate to Congress is not to *prescribe*, but to *evolve*, a progressive tax system. Sales taxes, are form of indirect taxes, and they are also regressive. Resort to indirect taxes should be *minimized* but not *avoided* entirely because it is difficult, if not impossible, to avoid them by imposing such taxes according to the taxpayers' ability to pay. In the case of the VAT, the law minimizes the regressive effects of this imposition by providing for *zero rating* of certain transactions (R.A. No. 7716, 3, amending § 102 (b) of the NIRC), while granting *exemptions* to other transactions. (R.A. No. 7716, § 4, amending § 103 of the NIRC) Transactions involving basic and essential goods and services are exempted from the VAT. On the other hand, the transactions which are subject to the VAT are those which involve goods and services which are used or availed of mainly by higher income groups.

10. **ID.; JUDICIARY; JUDICIAL POWER; CASE MUST BE ACTUAL FOR ADJUDICATION.**— CREBA's petition claims constitutional violations at wholesale and in the

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abstract. There is no fully developed record which can impart to adjudication the impact of actuality. There is no factual foundation to show in the *concrete* the application of the law to *actual contracts* and exemplify its effect on property rights. A test case may be presented provided, it is an actual case and not an abstract or hypothetical one. Our duty under Art. VIII, § 1 (2) to decide whenever a claim is made that "there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government" can only arise if an actual case or controversy is before us.

11. ID.; LEGISLATION; RA NO. 7716; ON COOPERATIVES; NO VIOLATION OF CONSTITUTIONAL POLICY TOWARDS THE SAME SIMPLY BECAUSE TAX EXEMPTION WAS NOT GRANTED.— The Constitution does not require that cooperatives be granted tax exemptions in order to promote their growth and viability. There is no basis for petitioner's assertion that the government's policy toward cooperatives had been one of vacillation, as far as the grant of tax privileges was concerned, and that it was to put an end to this indecision that the constitutional provisions under Art. XII, § 1 and § 15 were adopted. Perhaps as a matter of policy cooperatives should be granted tax exemptions, but that is left to the discretion of Congress. If Congress does not grant exemption and there is no discrimination to cooperatives, no violation of any constitutional policy can be charged. That electric cooperatives are exempted from the VAT, We say: The classification between electric and other cooperatives apparently rests on a congressional determination that there is greater need to provide cheaper electric power to as many people as possible, especially those living in the rural areas, than there is to provide them with other necessities in life. We cannot say that such classification is unreasonable.

12. ID.; JUDICIARY; RULING ON THE ACTION OF CONSTITUTIONAL VALIDITY OF RA NO. 7716.— We have carefully read the various arguments raised against the constitutional validity of R.A. No. 7716. We have in fact

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taken the extraordinary step of enjoining its enforcement pending resolution of these cases. We have now come to the conclusion that the law suffers from none of the infirmities attributed to it by petitioners and that its enactment by the other branches of the government does not constitute a grave abuse of discretion. Any question as to its necessity, desirability or expediency must be addressed to Congress as the body which is electorally responsible, remembering that, as Justice Holmes has said, "legislators are the ultimate guardians of the liberties and welfare of the people in quite as great a degree as are the courts." It is not right that we should enforce the public accountability of legislators, that those who took part in passing the law in question by voting for it in Congress should later thrust to the courts the burden of reviewing measures in the flush of enactment. This Court does not sit as a third branch of the legislature, much less exercise a veto power over legislation.

APPEARANCES OF COUNSEL

Arturo M. Tolentino for and in his own behalf.

Donna Celeste D. Feliciano and *Juan T. David* for petitioner in G.R. No. 115525.

Lorna Kapunan-Patajo and *Roco, Bunag, Kapunan, Migallos and Jardeleza* for petitioner R.S. Roco.

Mervyn Encanto and *Jose Aguila-Grapilon* for petitioner Integrated Bar of the Philippines.

Villaraza & Cruz and *Simeon V. Marcelo* for petitioners in G.R. No. 115544.

Carlos A. Raneses and *Manuel M. Serrano* for petitioner in G.R. No. 115754.

Jovito R. Salonga and *Wigberto Tañada* for petitioners in G.R. No. 115781.

Salonga, Hernandez & Allado for petitioners Freedom From Debts Coalition, Inc. and Phil. Bible Society.

Estelito P. Mendoza for petitioner in G.R. No. 115852.

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Rene A.V. Saguisag for petitioner MABINI.

Panganiban, Benitez, Parlade, Africa & Barinaga Law Offices for petitioner in G.R. No. 115873.

R.B. Rodriguez & Associates for petitioners in G.R. No. 115931.

Solicitor General for respondents.

RESOLUTION

MENDOZA, *J.*:

These are motions seeking reconsideration of our decision dismissing the petitions filed in these cases for the declaration of unconstitutionality of R.A. No. 7716, otherwise known as the Expanded Value-Added Tax Law. The motions, of which there are 10 in all, have been filed by the several petitioners in these cases, with the exception of the Philippine Educational Publishers Association, Inc. and the Association of Philippine Booksellers, petitioners in G.R. No. 115931.

The Solicitor General, representing the respondents, filed a consolidated comment, to which the Philippine Airlines, Inc., petitioner in G.R. No. 115852, and the Philippine Press Institute, Inc., petitioner in G.R. No. 115544, and Juan T. David, petitioner in G.R. No. 115525, each filed a reply. In turn the Solicitor General filed on June 1, 1995 a rejoinder to the PPI's reply.

On June 27, 1995 the matter was submitted for resolution.

I. Power of the Senate to propose amendments to revenue bills. Some of the petitioners (Tolentino, Kilosbayan, Inc., Philippine Airlines (PAL), Roco, and Chamber of Real Estate and Builders Association [CREBA]) reiterate previous claims made by them that R.A. No. 7716 did not "originate exclusively" in the House of Representatives as required by Art. VI, § 24 of the Constitution. Although they admit that

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H. No. 11197 was filed in the House of Representatives where it passed three readings and that afterward it was sent to the Senate where after first reading it was referred to the Senate Ways and Means Committee, they complain that the Senate did not pass it on second and third readings. Instead what the Senate did was to pass its own version (S. No. 1630) which it approved on May 24, 1994. Petitioner Tolentino adds that what the Senate committee should have done was to amend H. No. 11197 by striking out the text of the bill and substituting it with the text of S. No. 1630. That way, it is said, "the bill remains a House bill and the Senate version just becomes the text (*only the text*) of the House bill."

The contention has no merit.

The enactment of S. No. 1630 is not the only instance in which the Senate proposed an amendment to a House revenue bill by enacting its own version of a revenue bill. On at least two occasions during the *Eighth Congress*, the Senate passed its own version of revenue bills, which, in consolidation with House bills earlier passed, became the enrolled bills. These were:

R.A. No. 7369 (AN ACT TO AMEND THE OMNIBUS INVESTMENTS CODE OF 1987 BY EXTENDING FROM FIVE (5) YEARS TO TEN YEARS THE PERIOD FOR TAX AND DUTY EXEMPTION AND TAX CREDIT ON CAPITAL EQUIPMENT) which was approved by the President on April 10, 1992. This Act is actually a consolidation of H. No. 34254, which was approved by the House on January 29, 1992, and S. No. 1920, which was approved by the Senate on February 3, 1992.

R.A. No. 7549 (AN ACT GRANTING TAX EXEMPTIONS TO WHOEVER SHALL GIVE REWARD TO ANY FILIPINO ATHLETE WINNING A MEDAL IN OLYMPIC GAMES) which was approved by the President on May 22, 1992. This Act is a consolidation of H. No. 22232, which was approved by the

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House of Representatives on August 2, 1989, and S. No. 807, which was approved by the Senate on October 21, 1991.

On the other hand, the *Ninth Congress* passed revenue laws which were also the result of the consolidation of House and Senate bills. These are the following, with indications of the dates on which the laws were approved by the President and dates the separate bills of the two chambers of Congress were respectively passed:

1. R.A. No. 7642

   AN ACT INCREASING THE PENALTIES FOR TAX EVASION, AMENDING FOR THIS PURPOSE THE PERTINENT SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE (December 28, 1992).

   House Bill No. 2165, October 5, 1992
   Senate Bill No. 32, December 7, 1992

2. R.A. No. 7643

   AN ACT TO EMPOWER THE COMMISSIONER OF INTERNAL REVENUE TO REQUIRE THE PAYMENT OF THE VALUE-ADDED TAX EVERY MONTH AND TO ALLOW LOCAL GOVERNMENT UNITS TO SHARE IN VAT REVENUE, AMENDING FOR THIS PURPOSE CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE (December 28, 1992)

   House Bill No. 1503, September 3, 1992
   Senate Bill No. 968, December 7, 1992

3. R.A. No. 7646

   AN ACT AUTHORIZING THE COMMISSIONER OF INTERNAL REVENUE TO PRESCRIBE THE PLACE FOR PAYMENT OF INTERNAL REVENUE TAXES BY LARGE TAXPAYERS, AMENDING FOR THIS PURPOSE CERTAIN PROVISIONS OF THE

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NATIONAL INTERNAL REVENUE CODE, AS AMENDED (February 24, 1993)

House Bill No. 1470, October 20, 1992
Senate Bill No. 35, November 19, 1992

4. R.A. No. 7649

AN ACT REQUIRING THE GOVERNMENT OR ANY OF ITS POLITICAL SUBDIVISIONS, INSTRUMENTALITIES OR AGENCIES INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS (GOCCS) TO DEDUCT AND WITHHOLD THE VALUE-ADDED TAX DUE AT THE RATE OF THREE PERCENT (3%) ON GROSS PAYMENT FOR THE PURCHASE 0F GOODS AND SIX PERCENT (6%) ON GROSS RECEIPTS FOR SERVICES RENDERED BY CONTRACTORS (April 6, 1993)

House Bill No. 5260, January 26, 1993
Senate Bill No. 1141, March 30, 1993

5. R.A. No. 7656

AN ACT REQUIRING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS TO DECLARE DIVIDENDS UNDER CERTAIN CONDITIONS TO THE NATIONAL GOVERNMENT, AND FOR OTHER PURPOSES (November 9, 1993)

House Bill No. 11024, November 3, 1993
Senate Bill No. 1168, November 3, 1993

6. R.A. No. 7660

AN ACT RATIONALIZING FURTHER THE STRUCTURE AND ADMINISTRATION OF THE DOCUMENTARY STAMP TAX, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, ALLOCATING FUNDS FOR SPECIFIC

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PROGRAMS, AND FOR OTHER PURPOSES (December 23, 1993)

House Bill No. 7789, May 31, 1993
Senate Bill No. 1330, November 18, 1993

7. R.A. No. 7717

AN ACT IMPOSING A TAX ON THE SALE, BARTER OR EXCHANGE OF SHARES OF STOCK LISTED AND TRADED THROUGH THE LOCAL STOCK EXCHANGE OR THROUGH INITIAL PUBLIC OFFERING, AMENDING FOR THE PURPOSE THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, BY INSERTING A NEW SECTION AND REPEALING CERTAIN SUB-SECTIONS THEREOF (May 5, 1994)

House Bill No. 9187, November 3, 199
Senate Bill No. 1127, March 23, 1994

Thus, the enactment of S. No. 1630 is not the only instance in which the Senate, in the exercise of its power to propose amendments to bills required to originate in the House, passed its own version of a House revenue measure. It is noteworthy that, in the particular case of S. No. 1630, petitioners Tolentino and Roco, as members of the Senate, voted to approve it on second and third readings.

On the other hand, amendment by substitution, in the manner urged by petitioner Tolentino, concerns a mere matter of form. Petitioner has not shown what substantial difference it would make if, as the Senate actually did in this case, a separate bill like S. No. 1630 is instead enacted as a substitute measure, "*taking into consideration . . . H.B. 11197.*"

Indeed, so far as pertinent, the Rules of the Senate *only provide*:

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RULE XXIX

AMENDMENTS

x x x x x x x x x

§ 68. Not more than one amendment to the original amendment shall be considered.

No amendment by substitution shall be entertained unless the text thereof is submitted in writing.

Any of said amendments may be withdrawn before a vote is taken thereon.

§ 69. No amendment which seeks the inclusion of a legislative provision foreign to the subject matter of a bill (rider) shall be entertained.

x x x x x x x x x

§ 70-A. A bill or resolution shall not be amended by substituting it with another which covers a subject distinct from that proposed in the original bill or resolution. (italics added)

Nor is there merit in petitioners' contention that, with regard to revenue bills, the Philippine Senate possesses less power than the U.S. Senate because of textual differences between constitutional provisions giving them the power to propose or concur with amendments.

Art. I, § 7, cl. 1 of the U.S. Constitution reads:

> All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills.

Art. VI, § 24 of our Constitution reads:

> All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments.

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The addition of the word "exclusively" in the Philippine Constitution and the decision to drop the phrase "as on other Bills" in the American version, according to petitioners, shows the intention of the framers of our Constitution to restrict the Senate's power to propose amendments to revenue bills. Petitioner Tolentino contends that the word "exclusively" was inserted to modify "originate" and "the words 'as *in any* other bills' (sic) were eliminated so as to show that these bills were not to be like other bills but must be treated as a special kind."

The history of this provision does not support this contention. The supposed indicia of constitutional intent are nothing but the relics of an unsuccessful *attempt* to limit the power of the Senate. It will be recalled that the 1935 Constitution originally provided for a unicameral National Assembly. When it was decided in 1939 to change to a bicameral legislature, it became necessary to provide for the procedure for lawmaking by the Senate and the House of Representatives. The work of proposing amendments to the Constitution was done by the National Assembly, acting as a constituent assembly, some of whose members, jealous of preserving the Assembly's lawmaking powers, sought to curtail the powers of the proposed Senate. Accordingly they proposed the following provision:

All bills appropriating public funds, revenue or tariff bills, bills of local application, and private bills shall originate exclusively in the Assembly, but the Senate may propose or concur with amendments. In case of disapproval by the Senate of any such bills, the Assembly may repass the same by a two-thirds vote of all its members, and thereupon, the bill so repassed shall be deemed enacted and may be submitted to the President for corresponding action. In the event that the Senate should fail to finally act on any such bills, the Assembly may, after thirty days from the opening of the next regular session of the same legislative term, reapprove the same with a vote of two-thirds of all the members of the Assembly. And upon such reapproval, the bill

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shall be deemed enacted and may be submitted to the President for corresponding action.

The special committee on the revision of laws of the Second National Assembly vetoed the proposal. It deleted everything after the first sentence. As rewritten, the proposal was approved by the National Assembly and embodied in Resolution No. 38, as amended by Resolution No. 73. (J. ARUEGO, KNOW YOUR CONSTITUTION 65-66 [1950]) The proposed amendment was submitted to the people and ratified by them in the elections held on June 18, 1940.

This is the history of Art. VI, § 18 (2) of the 1935 Constitution, from which Art. VI, § 24 of the present Constitution was derived. It explains why the word "exclusively" was added to the American text from which the framers of the Philippine Constitution borrowed and why the phrase "as on other Bills" was not copied. Considering the defeat of the proposal, the power of the Senate to propose amendments must be understood to be full, plenary and complete "as on other Bills." Thus, because revenue bills are required to originate exclusively in the House of Representatives, the Senate cannot enact revenue measures of its own without such bills. After a revenue bill is passed and sent over to it by the House, however, the Senate certainly can pass its own version on the same subject matter. This follows from the coequality of the two chambers of Congress.

That this is also the understanding of book authors of the scope of the Senate's power to concur is clear from the following commentaries:

The power of the Senate to propose or concur with amendments is apparently without restriction. It would seem that by virtue of this power, the Senate can practically re-write a bill required to come from the House and leave only a trace of the original bill. For example, a general revenue bill passed by the lower house of the United States Congress contained provisions for the imposition of an inheritance tax. This was changed by the Senate into a

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corporation tax. The amending authority of the Senate was declared by the United States Supreme Court to be sufficiently broad to enable it to make the alteration. [Flint *v.* Stone Tracy Company, 220 U.S. 107, 55 L. ed. 389]

(L. TAÑADA AND F. CARREON, POLITICAL LAW OF THE PHILIPPINES 247 [1961])

The above-mentioned bills are supposed to be initiated by the House of Representatives because it is more numerous in membership and therefore also more representative of the people. Moreover, its members are presumed to be more familiar with the needs of the country in regard to the enactment of the legislation involved.

The Senate is, however, allowed much leeway in the exercise of its power to propose or concur with amendments to the bills initiated by the House of Representatives. Thus, in one case, a bill introduced in the U.S. House of Representatives was changed by the Senate to make a proposed inheritance tax a corporation tax. It is also accepted practice for the Senate to introduce what is known as an amendment by substitution, which may entirely replace the bill initiated in the House of Representatives.

(I. CRUZ, PHILIPPINE POLITICAL LAW 144-145 [1993])

In sum, while Art. VI, § 24 provides that all appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills must "originate exclusively in the House of Representatives," it also adds, "*but the Senate may propose or concur with amendments.*" In the exercise of this power, the Senate may propose an entirely new bill as a substitute measure. As petitioner Tolentino states in a high school text, a committee to which a bill is referred may do any of the following:

(1) to endorse the bill without changes; (2) to make changes in the bill omitting or adding sections or altering its language; (3) to make and endorse an entirely new bill as a substitute, in which case it will be known as *a committee bill*; or (4) to make no report at all.

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(A. TOLENTINO, THE GOVERNMENT OF THE PHILIPPINES 258 [1950])

To except from this procedure the amendment of bills which are required to originate in the House by prescribing that the number of the House bill and its other parts up to the enacting clause must be preserved although the text of the Senate amendment may be incorporated in place of the original body of the bill is to insist on a mere technicality. At any rate there is no rule prescribing this form. S. No. 1630, as a substitute measure, is therefore as much an amendment of H. No. 11197 as any which the Senate could have made.

II. S. No. 1630 a mere amendment of H. No. 11197. Petitioners' basic error is that they assume that S. No. 1630 is an *independent and distinct bill.* Hence their repeated references to its certification that it was passed by the Senate "*in substitution of S.B. No. 1129, taking into consideration* P.S. Res. No. 734 and *H.B. No. 11197,*" implying that there is something substantially different between the reference to S. No. 1129 and the reference to H. No. 11197. From this premise, they conclude that R.A. No. 7716 originated both in the House and in the Senate and that it is the product of two "half-baked bills because neither H. No. 11197 nor S. No. 1630 was passed by both houses of Congress."

In point of fact, in several instances the provisions of S. No. 1630, clearly appear to be mere amendments of the corresponding provisions of H. No. 11197. The very tabular comparison of the provisions of H. No. 11197 and S. No. 1630 attached as Supplement A to the basic petition of petitioner Tolentino, while showing differences between the two bills, at the same time indicates that the provisions of the Senate bill were precisely intended to be amendments to the House bill.

Without H. No. 11197, the Senate could not have enacted S. No. 1630. Because the Senate bill was a mere amendment

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of the House bill, H. No. 11197 in its original form did not have to pass the Senate on second and third readings. It was enough that after it was passed on first reading it was referred to the Senate Committee on Ways and Means. Neither was it required that S. No. 1630 be passed by the House of Representatives before the two bills could be referred to the Conference Committee.

There is legislative precedent for what was done in the case of H. No. 11197 and S. No. 1630. When the House bill and Senate bill, which became R.A. No. 1405 (Act prohibiting the disclosure of bank deposits), were referred to a conference committee, the question was raised whether the two bills could be the subject of such conference, considering that the bill from one house had not been passed by the other and vice versa. As Congressman Duran put the question:

MR. DURAN. Therefore, I raise this question of order as to procedure: *If a House bill is passed by the House but not passed by the Senate, and a Senate bill of a similar nature is passed in the Senate but never passed in the House, can the two bills be the subject of a conference, and can a law be enacted from these two bills*? I understand that the Senate bill in this particular instance does not refer to investments in government securities, whereas the bill in the House, which was introduced by the Speaker, covers two subject matters: not only investigation of deposits in banks but also investigation of investments in government securities. Now, since the two bills differ in their subject matter, I believe that no law can be enacted.

Ruling on the point of order raised, the chair (Speaker Jose B. Laurel, Jr.) said:

THE SPEAKER. The report of the conference committee is in order. It is precisely in cases like this where a conference should be had. If the House bill had been approved by the Senate, there would have been no need of a conference; but precisely because the Senate *passed another bill on the same subject matter*, the

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conference committee had to be created, and we are now considering the report of that committee.

(2 CONG. REC. No. 13, July 27, 1955, pp. 3841-42 [italics added])

III. The President's certification. The fallacy in thinking that H. No. 11197 and S. No. 1630 are distinct and unrelated measures also accounts for the petitioners' (Kilosbayan's and PAL's) contention that because the President separately certified to the need for the immediate enactment of these measures, his certification was ineffectual and void. The certification had to be made of the version of the same revenue bill which *at the moment* was being considered. Otherwise, to follow petitioners' theory, it would be necessary for the President to certify as many bills as are presented in a house of Congress even though the bills are merely versions of the bill he has already certified. It is enough that he certifies the bill which, at the time he makes the certification, is under consideration. Since on March 22, 1994 the Senate was considering S. No. 1630, it was that bill which had to be certified. For that matter on June 1, 1993 the President had earlier certified H. No. 9210 for immediate enactment because it was the one which at that time was being considered by the House. This bill was later substituted, together with other bills, by H. No. 11197.

As to what Presidential certification can accomplish, we have already explained in the main decision that the phrase "except when the President certifies to the necessity of its immediate enactment, etc." in Art. VI, § 26 (2) qualifies not only the requirement that "printed copies [of a bill] in its final form [must be] distributed to the members three days before its passage" but also the requirement that before a bill can become a law it must have passed "three readings on separate days." There is not only textual support for such construction but historical basis as well.

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Art. VI, § 21 (2) of the 1935 Constitution originally provided:

(2) No bill shall be passed by either House unless it shall have been printed and copies thereof in its final form furnished its Members at least three calendar days prior to its passage, except when the President shall have certified to the necessity of its immediate enactment. Upon the last reading of a bill, no amendment thereof shall be allowed and the question upon its passage shall be taken immediately thereafter, and the *yeas* and *nays* entered on the Journal.

When the 1973 Constitution was adopted, it was provided in Art. VIII, § 19 (2):

(2) No bill shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to the Members three days before its passage, except when the Prime Minister certifies to the necessity of its immediate enactment to meet a public calamity or emergency. Upon the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the *yeas* and *nays* entered in the Journal.

This provision of the 1973 document, with slight modification, was adopted in Art. VI, § 26 (2) of the present Constitution, thus:

(2) No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its Members three days before its passage, except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency. Upon the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the *yeas* and *nays* entered in the Journal.

The exception is based on the prudential consideration that if in all cases three readings on separate days are required and a bill has to be printed in final form before it can be passed, the need for a law may be rendered academic by the

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occurrence of the very emergency or public calamity which it is meant to address.

Petitioners further contend that a "growing budget deficit" is not an emergency, especially in a country like the Philippines where budget deficit is a chronic condition. Even if this were the case, an enormous budget deficit does not make the need for R.A. No. 7716 any less urgent or the situation calling for its enactment any less an emergency.

Apparently, the members of the Senate (including some of the petitioners in these cases) believed that there was an urgent need for consideration of S. No. 1630, because they responded to the call of the President by voting on the bill on second and third readings on the same day. While the judicial department is not bound by the Senate's acceptance of the President's certification, the respect due coequal departments of the government in matters committed to them by the Constitution and the absence of a clear showing of grave abuse of discretion caution a stay of the judicial hand.

At any rate, we are satisfied that S. No. 1630 received thorough consideration in the Senate where it was discussed for six days. Only its distribution in advance in its final printed form was actually dispensed with by holding the voting on second and third readings on the same day (March 24, 1994). Otherwise, sufficient time between the submission of the bill on February 8, 1994 on second reading and its approval on March 24, 1994 elapsed before it was finally voted on by the Senate on third reading.

The purpose for which three readings on separate days is required is said to be two-fold: (1) to inform the members of Congress of what they must vote on and (2) to give them notice that a measure is progressing through the enacting process, thus enabling them and others interested in the measure to prepare their positions with reference to it. (1 J. G. SUTHERLAND, STATUTES AND STATUTORY CONS-

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TRUCTION 10.04, p. 282 [1972]) These purposes were substantially achieved in the case of R.A. No. 7716.

IV. Power of Conference Committee. It is contended (principally by Kilosbayan, Inc. and the Movement of Attorneys for Brotherhood, Integrity and Nationalism, Inc. (MABINI)) that in violation of the constitutional policy of full public disclosure and the people's right to know (Art. II, § 28 and Art. III, § 7) the Conference Committee met for two days in executive session with only the conferees present.

As pointed out in our main decision, even in the United States it was customary to hold such sessions with only the conferees and their staffs in attendance and it was only in 1975 when a new rule was adopted requiring open sessions. Unlike its American counterpart, the Philippine Congress has not adopted a rule prescribing open hearings for conference committees.

It is nevertheless claimed that in the United States, before the adoption of the rule in 1975, at least staff members were present. These were staff members of the Senators and Congressmen, however, who may be presumed to be their confidential men, not stenographers as in this case who on the last two days of the conference were excluded. There is no showing that the conferees themselves did not take notes of their proceedings so as to give petitioner Kilosbayan basis for claiming that even in secret diplomatic negotiations involving state interests, conferees keep notes of their meetings. Above all, the public's right to know was fully served because the Conference Committee in this case submitted a report showing the changes made on the differing versions of the House and the Senate.

Petitioners cite the rules of both houses which provide that conference committee reports must contain "a detailed, sufficiently explicit statement of the changes in or other amendments." These changes are shown in the bill attached

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to the Conference Committee Report. The members of both houses could thus ascertain what changes had been made in the original bills without the need of a statement detailing the changes.

The same question now presented was raised when the bill which became R.A. No. 1400 (Land Reform Act of 1955) was reported by the Conference Committee. Congressman Bengzon raised a point of order. He said:

MR. BENGZON. My point of order is that it is out of order to consider the report of the conference committee regarding *House Bill No. 2557* by reason of the provision of Section 11, Article XII, of the Rules of this House which provides specifically that the conference report must be accompanied by a detailed statement of the effects of the amendment on the bill of the House. This conference committee report is not accompanied by that detailed statement, Mr. Speaker. Therefore it is out of order to consider it.

Petitioner Tolentino, then the Majority Floor Leader, answered:

MR. TOLENTINO. Mr. Speaker, I should just like to say a few words in connection with the point of order raised by the gentleman from Pangasinan.

There is no question about the provision of the Rule cited by the gentleman from Pangasinan, but *this provision applies to those cases where only portions of the bill have been amended. In this case before us an entire bill is presented; therefore, it can be easily seen from the reading of the bill what the provisions are.* Besides, *this procedure has been an established practice.*

After some interruption, he continued:

MR. TOLENTINO. As I was saying, Mr. Speaker, we have to look into the reason for the provisions of the Rules, and the reason for the requirement in the provision cited by the gentleman from Pangasinan is when there are only certain words or phrases inserted in or deleted from the provisions of the bill included in the

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conference report, and we cannot understand what those words and phrases mean and their relation to the bill. *In that case, it is necessary to make a detailed statement on how those words and phrases will affect the bill as a whole; but when the entire bill itself is copied verbatim in the conference report, that is not necessary.* So when the reason for the Rule does not exist, the Rule does not exist.

(2 CONG. REC. No. 2, p. 4056. [italics added])

Congressman Tolentino was sustained by the chair. The record shows that when the ruling was appealed, it was upheld by viva voce and when a division of the House was called, it was sustained by a vote of 48 to 5. (*Id.*, p. 4058)

Nor is there any doubt about the power of a conference committee to insert new provisions as long as these are germane to the subject of the conference. As this Court held in *Philippine Judges Association v. Prado*, 227 SCRA 703 (1993), in an opinion written by then Justice Cruz, the jurisdiction of the conference committee is not limited to resolving differences between the Senate and the House. It may propose an entirely new provision. What is important is that its report is subsequently approved by the respective houses of Congress. This Court ruled that it would not entertain allegations that, because new provisions had been added by the conference committee, there was thereby a violation of the constitutional injunction that "upon the last reading of a bill, no amendment thereto shall be allowed."

Applying these principles, we shall *decline* to look into the petitioners' charges *that an amendment was made upon the last reading of the bill* that eventually became R.A. No. 7354 and that *copies* thereof in its final form *were not distributed* among the members of each House. Both the enrolled bill and the legislative journals certify that the measure was duly enacted *i.e.*, in accordance with Article VI, Sec. 26 (2) of the Constitution. We are bound by such official assurances from a coordinate department of the

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government, to which we owe, at the very least, a becoming courtesy.

(*Id.* at 710. [italics added])

It is interesting to note the following description of conference committees in the Philippines in a 1979 study:

Conference committees may be of two types: free or instructed. These committees may be given instructions by their parent bodies or they may be left without instructions. Normally the conference committees are without instructions, and this is why they are often critically referred to as "the little legislatures." Once bills have been sent to them, the conferees have almost unlimited authority to change the clauses of the bills and in fact sometimes introduce new measures that were not in the original legislation. No minutes are kept, and members' activities on conference committees are difficult to determine. One congressman known for his idealism put it this way: "I killed a bill on export incentives for my interest group [copra] in the conference committee but I could not have done so anywhere else." The conference committee submits a report to both houses, and usually it is accepted. If the report is not accepted, then the committee is discharged and new members are appointed.

(R. Jackson, *Committees in the Philippine Congress*, in COMMITTEES AND LEGISLATURES: A COMPARATIVE ANALYSIS 163 [J. D. LEES AND M. SHAW, eds.]).

In citing this study, we pass no judgment on the methods of conference committees. We cite it only to say that conference committees here are no different from their counterparts in the United States whose vast powers we noted in *Philippine Judges Association v. Prado, supra*. At all events, under Art. VI, § 16(3) each house has the power "to determine the rules of its proceedings," including those of its committees. Any meaningful change in the method and procedures of Congress or its committees must therefore be sought in that body itself.

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V. The titles of S. No. 1630 and H. No. 11197. PAL maintains that R.A. No. 7716 violates Art. VI, § 26 (1) of the Constitution which provides that "Every bill passed by Congress shall embrace only one subject which shall be expressed in the title thereof." PAL contends that the amendment of its franchise by the withdrawal of its exemption from the VAT is not expressed in the title of the law.

Pursuant to § 13 of P.D. No. 1590, PAL pays a franchise tax of 2% on its gross revenue "in lieu of all other taxes, duties, royalties, registration, license and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed or collected by any municipal, city, provincial or national authority or government agency, now or in the future."

PAL was exempted from the payment of the VAT along with other entities by § 103 of the National Internal Revenue Code, which provides as follows:

§ 103. *Exempt transactions.*- The following shall be exempt from the value-added tax:

x x x x x x x x x

(q) Transactions which are exempt under special laws or international agreements to which the Philippines is a signatory.

R.A. No. 7716 seeks to withdraw certain exemptions, including that granted to PAL, by amending § 103, as follows:

103. *Exempt transactions.* - The following shall be exempt from the value-added tax:

x x x x x x x x x

(q) Transactions which are exempt under special laws, except those granted under Presidential Decree Nos. 66, 529, 972, 1491, 1590.

. . .

The amendment of § 103 is expressed in the title of R.A. No. 7716 which reads:

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AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM, WIDENING ITS TAX BASE AND ENHANCING ITS ADMINISTRATION, AND FOR THESE PURPOSES AMENDING AND REPEALING THE RELEVANT PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES.

By stating that R.A. No. 7716 seeks to "[RESTRUCTURE] THE VALUE-ADDED TAX (VAT) SYSTEM [BY] WIDENING ITS TAX BASE AND ENHANCING ITS ADMINISTRATION, AND FOR THESE PURPOSES AMENDING AND REPEALING THE RELEVANT PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED AND FOR OTHER PURPOSES," Congress thereby clearly expresses its intention to amend any provision of the NIRC which stands in the way of accomplishing the purpose of the law.

PAL asserts that the amendment of its franchise must be reflected in the title of the law by specific reference to P.D. No. 1590. It is unnecessary to do this in order to comply with the constitutional requirement, since it is already stated in the title that the law seeks to amend the pertinent provisions of the NIRC, among which is § 103(q), in order to widen the base of the VAT. Actually, it is the bill which becomes a law that is required to express in its title the subject of legislation. The titles of H. No. 11197 and S. No. 1630 in fact specifically referred to 103 of the NIRC as among the provisions sought to be amended. We are satisfied that sufficient notice had been given of the pendency of these bills in Congress before they were enacted into what is now R.A.No. 7716.

In *Philippine Judges Association v. Prado, supra*, a similar argument as that now made by PAL was rejected. R.A. No. 7354 is entitled AN ACT CREATING THE PHILIPPINE POSTAL CORPORATION, DEFINING ITS POWERS, FUNCTIONS AND RESPONSIBILITIES, PROVIDING FOR REGULATION OF THE INDUSTRY AND FOR OTHER

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PURPOSES CONNECTED THEREWITH. It contained a provision repealing all franking privileges. It was contended that the withdrawal of franking privileges was not expressed in the title of the law. In holding that there was sufficient description of the subject of the law in its title, including the repeal of franking privileges, this Court held:

> To require every end and means necessary for the accomplishment of the general objectives of the statute to be expressed in its title would not only be unreasonable but would actually render legislation impossible. [Cooley, Constitutional Limitations, 8th Ed., p. 297] As has been correctly explained:
>
> > The details of a legislative act need not be specifically stated in its title, but matter germane to the subject as expressed in the title, and adopted to the accomplishment of the object in view, may properly be included in the act. Thus, it is proper to create in the same act the machinery by which the act is to be enforced, to prescribe the penalties for its infraction, and to remove obstacles in the way of its execution. If such matters are properly connected with the subject as expressed in the title, it is unnecessary that they should also have special mention in the title. (Southern Pac. Co. *v.* Bartine, 170 Fed. 725)
>
> (227 SCRA at 707-708)

VI. Claims of press freedom and religious liberty. We have held that, as a general proposition, the press is not exempt from the taxing power of the State and that what the constitutional guarantee of free press prohibits are laws which single out the press or target a group belonging to the press for special treatment or which in any way discriminate against the press on the basis of the content of the publication, and R.A. No. 7716 is none of these.

Now it is contended by the PPI that by removing the exemption of the press from the VAT while maintaining those granted to others, the law discriminates against the

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press. At any rate, it is averred, "even nondiscriminatory taxation of constitutionally guaranteed freedom is unconstitutional."

With respect to the first contention, it would suffice to say that since the law granted the press a privilege, the law could take back the privilege anytime without offense to the Constitution. The reason is simple: by granting exemptions, the State does not forever waive the exercise of its sovereign prerogative.

Indeed, in withdrawing the exemption, the law merely subjects the press to the same tax burden to which other businesses have long ago been subject. It is thus different from the tax involved in the cases invoked by the PPI. The license tax in *Grosjean v. American Press Co.*, 297 U.S. 233, 80 L. Ed. 660 (1936) was found to be discriminatory because it was laid on the gross advertising receipts only of newspapers whose weekly circulation was over 20,000, with the result that the tax applied only to 13 out of 124 publishers in Louisiana. These large papers were critical of Senator Huey Long who controlled the state legislature which enacted the license tax. The censorial motivation for the law was thus evident.

On the other hand, in *Minneapolis Star & Tribune Co. v. Minnesota Comm'r of Revenue*, 460 U.S. 575, 75 L. Ed. 2d 295 (1983), the tax was found to be discriminatory because although it could have been made liable for the sales tax or, in lieu thereof, for the use tax on the privilege of using, storing or consuming tangible goods, the press was not. Instead, the press was exempted from both taxes. It was, however, later made to pay a *special* use tax on the cost of paper and ink which made these items "the only items subject to the use tax that were component of goods to be sold at retail." The U.S. Supreme Court held that the differential treatment of the press "suggests that the goal of regulation is

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not unrelated to suppression of expression, and such goal is presumptively unconstitutional." It would therefore appear that even a law that favors the press is constitutionally suspect. (See the dissent of Rehnquist, *J.* in that case)

Nor is it true that only two exemptions previously granted by E.O. No. 273 are withdrawn "absolutely and unqualifiedly" by R.A. No. 7716. Other exemptions from the VAT, such as those previously granted to PAL, petroleum concessionaires, enterprises registered with the Export Processing Zone Authority, and many more are likewise totally withdrawn, in addition to exemptions which are partially withdrawn, in an effort to broaden the base of the tax.

The PPI says that the discriminatory treatment of the press is highlighted by the fact that transactions, which are profit oriented, continue to enjoy exemption under R.A. No. 7716. An enumeration of some of these transactions will suffice to show that by and large this is not so and that the exemptions are granted for purpose. As the Solicitor General says, such exemptions are granted, in some cases, to encourage agricultural production and, in other cases, for the personal benefit of the end-user rather than for profit. The exempt transactions are:

(a) Goods for consumption or use which are in their original state (agricultural, marine and forest products, cotton seeds in their original state, fertilizers, seeds, seedlings, fingerlings, fish, prawn livestock and poultry feeds) and goods or services to enhance agriculture (milling of palay, corn, sugar cane and raw sugar, livestock, poultry feeds, fertilizer, ingredients used for the manufacture of feeds).

(b) Goods used for personal consumption or use (household and personal effects of citizens returning to the Philippines) or for professional use, like professional instruments and implements, by persons coming to the Philippines to settle here.

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(c) Goods subject to excise tax such as petroleum products or to be used for manufacture of petroleum products subject to excise tax and services subject to percentage tax.

(d) Educational services, medical, dental, hospital and veterinary services, and services rendered under employer-employee relationship.

(e) Works of art and similar creations sold by the artist himself.

(f) Transactions exempted under special laws, or international agreements.

(g) Export-sales by persons not VAT-registered.

(h) Goods or services with gross annual sale or receipt not exceeding *P500,000.00*.

(Respondents' Consolidated Comment on the Motions for Reconsideration, pp. 58-60)

The PPI asserts that it does not really matter that the law does not discriminate against the press because "even nondiscriminatory taxation on constitutionally guaranteed freedom is unconstitutional." PPI cites in support of this assertion the following statement in *Murdock v. Pennsylvania*, 319 U.S. 105, 87 L. Ed 1292 (1943):

> The fact that the ordinance is "nondiscriminatory" is immaterial. The protection afforded by the First Amendment is not so restricted. A license tax certainly does not acquire constitutional validity because it classifies the privileges protected by the First Amendment along with the wares and merchandise of hucksters and peddlers and treats them all alike. Such equality in treatment does not save the ordinance. Freedom of press, freedom of speech, freedom of religion are in preferred position.

The Court was speaking in that case of a *license tax*, which, unlike an ordinary tax, is mainly for regulation. Its imposition on the press is unconstitutional because it lays a prior restraint on the exercise of its right. Hence, although its

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application to others, such those selling goods, is valid, its application to the press or to religious groups, such as the Jehovah's Witnesses, in connection with the latter's sale of religious books and pamphlets, is unconstitutional. As the U.S. Supreme Court put it, "it is one thing to impose a tax on income or property of a preacher. It is quite another thing to exact a tax on him for delivering a sermon."

A similar ruling was made by this Court in *American Bible Society v. City of Manila*, 101 Phil. 386 (1957) which invalidated a city ordinance requiring a business license fee on those engaged in the sale of general merchandise. It was held that the tax could not be imposed on the sale of bibles by the American Bible Society without restraining the free exercise of its right to propagate.

The VAT is, however, different. It is not a license tax. It is not a tax on the exercise of a privilege, much less a constitutional right. It is imposed on the sale, barter, lease or exchange of goods or properties or the sale or exchange of services and the lease of properties purely for revenue purposes. To subject the press to its payment is not to burden the exercise of its right any more than to make the press pay income tax or subject it to general regulation is not to violate its freedom under the Constitution.

Additionally, the Philippine Bible Society, Inc. claims that although it sells bibles, the proceeds derived from the sales are used to subsidize the cost of printing copies which are given free to those who cannot afford to pay so that to tax the sales would be to increase the price, while reducing the volume of sale. Granting that to be the case, the resulting burden on the exercise of religious freedom is so incidental as to make it difficult to differentiate it from any other economic imposition that might make the right to disseminate religious doctrines costly. Otherwise, to follow the petitioner's argument, to increase the tax on the sale of vestments would

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be to lay an impermissible burden on the right of the preacher to make a sermon.

On the other hand the registration fee of P1,000.00 imposed by § 107 of the NIRC, as amended by 7 of R.A. No. 7716, although fixed in amount, is really just to pay for the expenses of registration and enforcement of provisions such as those relating to accounting in § 108 of the NIRC. That the PBS distributes free bibles and therefore is not liable to pay the VAT does not excuse it from the payment of this fee because it also sells same copies. At any rate whether the PBS is liable for the VAT must be decided in concrete cases, in the event it is assessed this tax by the Commissioner of Internal Revenue.

VII. Alleged violations of the due process, equal protection and contract clauses and the rule on taxation. CREBA asserts that R.A. No. 7716 (1) impairs the obligations of contracts, (2) classifies transactions as covered or exempt without reasonable basis and (3) violates the rule that taxes should be uniform and equitable and that Congress shall "evolve a progressive system of taxation."

With respect to the first contention, it is claimed that the application of the tax to existing contracts of the sale of real property by installment or on deferred payment basis would result in substantial increases in the monthly amortizations to be paid because of the 10% VAT. The additional amount, it is pointed out, is something that the buyer did not anticipate at the time he entered into the contract.

The short answer to this is the one given by this Court in an early case: "Authorities from numerous sources are cited by the plaintiffs, but none of them show that a lawful tax on a new subject, or an increased tax on an old one, interferes with a contract or impairs its obligation, within the meaning of the Constitution. Even though such taxation may affect particular contracts, as it may increase the debt of one person

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and lessen the security of another, or may impose additional burdens upon one class and release the burdens of another, still the tax must be paid unless prohibited by the Constitution, nor can it be said that it impairs the obligation of any existing contract in its true legal sense." (La Insular *v.* Machuca Go-Tauco and Nubla Co-Siong, 39 Phil. 567, 574 [1919]) Indeed not only existing laws but also "*the reservation of the essential attributes of sovereignty*, is . . . read into contracts as a postulate of the legal order." (Philippine-American Life Ins. Co. *v.* Auditor General, 22 SCRA 135, 147 [1968]) Contracts must be understood as having been made in reference to the possible exercise of the rightful authority of the government and no obligation of contract can extend to the defeat of that authority. (Norman *v.* Baltimore and Ohio R.R., 79 L.Ed. 885 [1935])

It is next pointed out that while § 4 of R.A. No. 7716 exempts such transactions as the sale of agricultural products, food items, petroleum, and medical and veterinary services, it grants no exemption on the sale of real property which is equally essential. The sale of real property for socialized and low-cost housing is exempted from the tax, but CREBA claims that real estate transactions of "the less poor," *i.e.*, the middle class, who are equally homeless, should likewise be exempted.

The sale of food items, petroleum, medical and veterinary services, etc., which are essential goods and services was already exempt under § 103, pars. (b) (d) (1) of the NIRC before the enactment of R.A. No. 7716. Petitioner is in error in claiming that R.A. No. 7716 granted exemption to these transactions, while subjecting those of petitioner to the payment of the VAT. Moreover, there is a difference between the "homeless poor" and the "homeless less poor" in the example given by petitioner, because the second group or middle class can afford to rent houses in the meantime that they cannot yet buy their own homes. The two social classes are

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thus differently situated in life. "It is inherent in the power to tax that the State be free to select the subjects of taxation, and it has been repeatedly held that 'inequalities which result from a singling out of one particular class for taxation, or exemption infringe no constitutional limitation.'" (Lutz *v.* Araneta, 98 Phil. 148, 153 (1955). *Accord*, City of Baguio *v.* De Leon, 134 Phil. 912 (1968); Sison, Jr. *v.* Ancheta, 130 SCRA 654, 663 (1984); Kapatiran ng mga Naglilingkod sa Pamahalaan ng Pilipinas, Inc. *v.* Tan, 163 SCRA 371 [1988]).

Finally, it is contended, for the reasons already noted, that R.A. No. 7716 also violates Art. VI, § 28(1) which provides that "The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation."

Equality and uniformity of taxation means that all taxable articles or kinds of property of the same class be taxed at the same rate. The taxing power has the authority to make reasonable and natural classifications for purposes of taxation. To satisfy this requirement it is enough that the statute or ordinance applies equally to all persons, forms and corporations placed in similar situation. (City of Baguio *v.* De Leon, *supra*; Sison, Jr. *v.* Ancheta, *supra*)

Indeed, the VAT was already provided in E.O. No. 273 long before R.A. No. 7716 was enacted. R.A. No. 7716 merely expands the base of the tax. The validity of the original VAT Law was questioned in *Kapatiran ng Naglilingkod sa Pamahalaan ng Pilipinas, Inc. v. Tan*, 163 SCRA 383 (1988) on grounds similar to those made in these cases, namely, that the law was "oppressive, discriminatory, unjust and regressive in violation of Art. VI, § 28(1) of the Constitution." (At 382) Rejecting the challenge to the law, this Court held:

> As the Court sees it, EO 273 satisfies all the requirements of a valid tax. It is uniform. . . .

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The sales tax adopted in EO 273 is applied similarly on all goods and services sold to the public, which are not exempt, at the constant rate of 0% or 10%.

The disputed sales tax is also equitable. It is imposed only on sales of goods or services by persons engaged in business with an aggregate gross annual sales exceeding P200,000.00. Small corner sari-sari stores are consequently exempt from its application. Likewise exempt from the tax are sales of farm and marine products, so that the costs of basic food and other necessities, spared as they are from the incidence of the VAT, are expected to be relatively lower and within the reach of the general public.

(At 382-383)

The CREBA claims that the VAT is regressive. A similar claim is made by the Cooperative Union of the Philippines, Inc. (CUP), while petitioner Juan T. David argues that the law contravenes the mandate of Congress to provide for a progressive system of taxation because the law imposes a flat rate of 10% and thus places the tax burden on all taxpayers without regard to their ability to pay.

The Constitution does not really prohibit the imposition of indirect taxes which, like the VAT, are regressive. What it simply provides is that Congress shall "*evolve* a progressive system of taxation." The constitutional provision has been interpreted to mean simply that "direct taxes are . . . to be preferred [and] as much as possible, indirect taxes should be minimized." (E. FERNANDO, THE CONSTITUTION OF THE PHILIPPINES 221 [Second ed. [1977]) Indeed, the mandate to Congress is not to *prescribe*, but to *evolve*, a progressive tax system. Otherwise, sales taxes, which perhaps are the oldest form of indirect taxes, would have been prohibited with the proclamation of Art. VIII, § 17(1) of the 1973 Constitution from which the present Art. VI, § 28(1) was taken. Sales taxes are also regressive.

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Resort to indirect taxes should be *minimized* but not *avoided* entirely because it is difficult, if not impossible, to avoid them by imposing such taxes according to the taxpayers' ability to pay. In the case of the VAT, the law minimizes the regressive effects of this imposition by providing for *zero rating* of certain transactions (R.A. No. 7716, § 3, amending § 102 (b) of the NIRC), while granting *exemptions* to other transactions. (R.A. No. 7716, § 4, amending § 103 of the NIRC)

Thus, the following transactions involving basic and essential goods and services are exempted from the VAT:

(a) Goods for consumption or use which are in their original state (agricultural, marine and forest products, cotton seeds in their original state, fertilizers, seeds, seedlings, fingerlings, fish, prawn livestock and poultry feeds) and goods or services to enhance agriculture (milling of palay, corn sugar cane and raw sugar, livestock, poultry feeds, fertilizer, ingredients used for the manufacture of feeds).

(b) Goods used for personal consumption or use (household and personal effects of citizens returning to the Philippines) and or professional use, like professional instruments and implements, by persons coming to the Philippines to settle here.

(c) Goods subject to excise tax such as petroleum products or to be used for manufacture of petroleum products subject to excise tax and services subject to percentage tax.

(d) Educational services, medical, dental, hospital and veterinary services, and services rendered under employer-employee relationship.

(e) Works of art and similar creations sold by the artist himself.

(f) Transactions exempted under special laws, or international agreements.

(g) Export-sales by persons not VAT-registered.

(h) Goods or services with gross annual sale or receipt not exceeding *P500,000.00*.

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(Respondents' Consolidated Comment on the Motions for Reconsideration, pp. 58-60)

On the other hand, the transactions which are subject to the VAT are those which involve goods and services which are used or availed of mainly by higher income groups. These include real properties held primarily for sale to customers or for lease in the ordinary course of trade or business, the right or privilege to use patent, copyright, and other similar property or right, the right or privilege to use industrial, commercial or scientific equipment, motion picture films, tapes and discs, radio, television, satellite transmission and cable television time, hotels, restaurants and similar places, securities, lending investments, taxicabs, utility cars for rent, tourist buses, and other common carriers, services of franchise grantees of telephone and telegraph.

The problem with CREBA's petition is that it presents broad claims of constitutional violations by tendering issues not at retail but at wholesale and in the abstract. There is no fully developed record which can impart to adjudication the impact of actuality. There is no factual foundation to show in the *concrete* the application of the law to *actual contracts* and exemplify its effect on property rights. For the fact is that petitioner's members have not even been assessed the VAT. Petitioner's case is not made concrete by a series of hypothetical questions asked which are no different from those dealt with in advisory opinions.

The difficulty confronting petitioner is thus apparent. He alleges arbitrariness. A mere allegation, as here, does not suffice. There must be a factual foundation of such unconstitutional taint. Considering that petitioner here would condemn such a provision as void on its face, he has not made out a case. This is merely to adhere to the authoritative doctrine that where the due process and equal protection clauses are invoked, considering that they are not fixed rules but rather broad standards, there is a need for proof of such persuasive character as would lead to such a conclusion.

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Absent such a showing, the presumption of validity must prevail.

(Sison, Jr. *v.* Ancheta, 130 SCRA at 661)

Adjudication of these broad claims must await the development of a concrete case. It may be that postponement of adjudication would result in a multiplicity of suits. This need not be the case, however. Enforcement of the law may give rise to such a case. A test case, provided it is an actual case and not an abstract or hypothetical one, may thus be presented.

Nor is hardship to taxpayers alone an adequate justification for adjudicating abstract issues. Otherwise, adjudication would be no different from the giving of advisory opinion that does not really settle legal issues.

We are told that it is our duty under Art. VIII, § 1, (2) to decide whenever a claim is made that "there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government." This duty can only arise if an actual case or controversy is before us. Under Art. VIII, § 5 our jurisdiction is defined in terms of "cases" and all that Art. VIII, § 1 (2) can plausibly mean is that in the exercise of that *jurisdiction* we have the *judicial power* to determine questions of grave abuse of discretion by any branch or instrumentality of the government.

Put in another way, what is granted in Art. VIII, § 1 (2) is "judicial power," which is "the power of a court to hear and decide cases pending between parties who have the right to sue and be sued in the courts of law and equity" (Lamb *v.* Phipps, 22 Phil. 456, 559 [1912]), as distinguished from legislative and executive power. This power cannot be directly appropriated until it is apportioned among several courts either by the Constitution, as in the case of Art. VIII, § 5, or by statute, as in the case of the Judiciary Act of 1948 (R.A. No. 296) and the Judiciary Reorganization Act of 1980 (B.P.

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Blg. 129). The power thus apportioned constitutes the court's "jurisdiction," defined as "the power conferred by law upon a court or judge to take cognizance of a case, to the exclusion of all others." (United States *v.* Arceo, 6 Phil. 29 [1906]) Without an actual case coming within its jurisdiction, this Court cannot inquire into any allegation of grave abuse of discretion by the other departments of the government.

VIII. Alleged violation of policy towards cooperatives. On the other hand, the Cooperative Union of the Philippines (CUP), after briefly surveying the course of legislation, argues that it was to adopt a definite policy of granting tax exemption to cooperatives that the present Constitution embodies provisions on cooperatives. To subject cooperatives to the VAT would therefore be to infringe a constitutional policy. Petitioner claims that in 1973, P.D. No. 175 was promulgated exempting cooperatives from the payment of income taxes and sales taxes but in 1984, because of the crisis which menaced the national economy, this exemption was withdrawn by P.D. No. 1955; that in 1986, P.D. No. 2008 again granted cooperatives exemption from income and sales taxes until December 31, 1991, but, in the same year, E.O. No. 93 revoked the exemption; and that finally in 1987 the framers of the Constitution "repudiated the previous actions of the government adverse to the interests of the cooperatives, *that is, the repeated revocation of the tax exemption to cooperatives* and instead upheld the policy of strengthening the cooperatives *by way of the grant of tax exemptions*," by providing the following in Art. XII:

> § 1. The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

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The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices.

In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership.

§ 15. The Congress shall create an agency to promote the viability and growth of cooperatives as instruments for social justice and economic development.

Petitioner's contention has no merit. In the first place, it is not true that P.D. No. 1955 singled out cooperatives by withdrawing their exemption from income and sales taxes under P.D. No. 175, § 5. What P.D. No. 1955, 1 did was to withdraw the *exemptions and preferential treatments theretofore granted to private business enterprises in general*, in view of the economic crisis which then beset the nation. It is true that after P.D. No. 2008, § 2 had restored the tax exemptions of cooperatives in 1986, the exemption was again repealed by E.O. No. 93, 1, but then again cooperatives were not the only ones whose exemptions were withdrawn. *The withdrawal of tax incentives applied to all, including government and private entities.* In the second place, the Constitution does not really require that cooperatives be granted tax exemptions in order to promote their growth and viability. Hence, there is no basis for petitioner's assertion that the government's policy toward cooperatives had been one of vacillation, as far as the grant of tax privileges was concerned, and that it was to put an end to this indecision that the constitutional provisions cited were adopted. Perhaps as a matter of policy cooperatives should be granted tax

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exemptions, but that is left to the discretion of Congress. If Congress does not grant exemption and there is no discrimination to cooperatives, no violation of any constitutional policy can be charged.

Indeed, petitioner's *theory amounts to saying that under the Constitution cooperatives are exempt from taxation*. Such theory is contrary to the Constitution under which only the following are exempt from taxation: charitable institutions, churches and parsonages, by reason of Art. VI, § 28 (3), and non-stock, non-profit educational institutions, by reason of Art. XIV, § 4 (3).

CUP's further ground for seeking the invalidation of R.A. No. 7716 is that it denies cooperatives the equal protection of the law because electric cooperatives are exempted from the VAT. The classification between electric and other cooperatives (farmers cooperatives, producers cooperatives, marketing cooperatives, etc.) apparently rests on a congressional determination that there is greater need to provide cheaper electric power to as many people as possible, especially those living in the rural areas, than there is to provide them with other necessities in life. We cannot say that such classification is unreasonable.

We have carefully read the various arguments raised against the constitutional validity of R.A. No. 7716. We have in fact taken the extraordinary step of enjoining its enforcement pending resolution of these cases. We have now come to the conclusion that the law suffers from none of the infirmities attributed to it by petitioners and that its enactment by the other branches of the government does not constitute a grave abuse of discretion. Any question as to its necessity, desirability or expediency must be addressed to Congress as the body which is electorally responsible, remembering that, as Justice Holmes has said, "legislators are the ultimate guardians of the liberties and welfare of the people in quite as great a

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degree as are the courts." (Missouri, Kansas & Texas Ry. Co. *v.* May, 194 U.S. 267, 270, 48 L.Ed. 971, 973 [1904]) It is not right, as petitioner in G.R. No. 115543 does in arguing that we should enforce the public accountability of legislators, that those who took part in passing the law in question by voting for it in Congress should later thrust to the courts the burden of reviewing measures in the flush of enactment. This Court does not sit as a third branch of the legislature, much less exercise a veto power over legislation.

WHEREFORE, the motions for reconsideration are denied with finality and the temporary restraining order previously issued is hereby lifted.

SO ORDERED.

Narvasa, C.J., Feliciano, Melo, Kapunan, Francisco, and *Hermosisima, Jr., JJ.,* concur.

Padilla and *Vitug, JJ.,* maintain their separate opinion.

Regalado, Romero, Bellosillo, and *Puno, JJ.,* maintain their dissenting opinion.

Davide, Jr., J., maintains his dissent. Grant MR.

Panganiban, J., took no part. Petitioner in G.R. No. 115873 is a former client.