

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

13th Congress
First Regular Session



HOUSE BILL NO. 268

Introduced by the **HON. MICHAEL JOHN "JACK" R. DUAVIT**

EXPLANATORY NOTE

It is a constitutional principle that all lands of the public domain, waters, minerals, coal petroleum and other mineral oils, all forces of potential energy forests and timber and other natural resources are owned by the State. With the exception of agricultural land all other natural resources shall not be alienated. It is further laid down in the Constitution that "Acts which circumvent or negate these provisions shall be considered inimical to the national interest and subject to criminal and civil sanctions, as may be provided by law."

Numerous statutes and rulings are to the effect that canals, esteros, creeks and similar waterways are of public dominion and as such may not be acquired by prescription and therefore not registrable. Public water are not subject to appropriation, sale, lease or otherwise be contracted, being outside the commerce of men. The inclusion and property of public dominion in a certificate does not confer title to the registrant. However, despite these well settled rules of law, encroachment, titling and/or

registration of these waterways is very much prevalent especially in urban and proximate areas.

Land in urban areas has become so scarce that even small spaces of about 60 square meters have become invaluable. Urban centers have become so crowded that every available space are being encroached upon and titled to the extent that even canals, streams, esteros are being filled up and built over, regardless of the fact that these are properties of the state, is inalienable and acquisition thereof is fraudulent. To make the situation worse, such those who commit these acts do so with impunity. Furthermore, the blocking and filling up of these waterways or natural drainages has resulted or added to the flooding, pollution, destruction of roads and other infrastructures, and contributes to the depreciation of the value of land and prevent normal development and use of the area.

This bill seeks to provide penalties to those unscrupulous persons who exploit this situation. Penalizing such registrants shall serve as a deterrent to these malefactors to prevent or curtail their anomalous acts of titling these waterways. Enactment of this bill will also serve as a response to the non-self executory provision in the Constitution that alienation of properties of the public domain are inimical to national interest and may be subject to sanctions.

In view of the foregoing, passage of this bill is earnestly sought.


MICHAEL JOHN "JACK" R. DUAVIT

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AN ACT
PENALIZING THE APPROPRIATION, ENCROACHMENT, REGISTRATION
AND TITLING OF CREEKS, ESTEROS, STREAMS, CANALS, RIVER
BANKS AND OTHER PUBLIC WATERWAYS AND FOR OTHER PURPOSES

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

SECTION 1. Declaration of Policy - It is a principle of the State that all lands of the public domain, waters, minerals, and other national resources belong to it and that acts committed to circumvent or negate this provision shall be considered inimical to the national interest and subject to criminal and civil sanctions.

SECTION 2. Purpose of this Act - It is the purpose of this Act to prevent or curtail the prevalent anomalous acts of encroachment, titling, and/or registration of esteros, creeks, canals, streams and other public



waterways consistent with public order and in furtherance of national interests.

SECTION 3. Definition of Terms - As used in this Act.

1. **"Person"** includes any natural or juridical person, except in cases where the crime is committed by a juridical person, the president or manager thereof shall be made liable;

2. **"Public Officer"** means any person holding any public office in the Government of the Republic of the Philippines;

3. **"Registration and/or Titling"** means the act of acquiring a certificate of ownership and/or recording with the Register of Deeds ownership and/or use of property;

4. **"Encroachment"** means the entering into, invasion of, intrusion on or infringement of a property not otherwise owned by the entrant;

5. **"Appropriation"** means the act of acquiring through any modes of acquisition of ownership or contract, title and/or use of a property;

6. **"Public waterways"** shall include streams, canals, creeks, esteros, and other similar natural drainages or water channels.

SECTION 4. Penalties for Private Persons - The penalty of imprisonment of not less than six (6) months and one (1) day to six (6) years

or a fine of not less than P5,000.00 or both shall be imposed on any person who:

- 1) appropriates and/or encroaches upon any creek, canal, estero, stream and other similar public waterways;
- 2) registers or otherwise acquires a title thereto.

SECTION 5. Penalties for Public Officers - If the encroachment, registration or titling of such waterways is caused by a public officer or acquired with his assistance, such public officer shall be liable for imprisonment of not less than six (6) years and one (1) day and not more than twelve (12) years.

SECTION 6. Suspension and Loss of Benefits - Any public officer against whom any criminal prosecution under a valid information covered in this Act in whatever stage of execution and mode of participation as pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement and gratuity benefits under any law. In case of acquittal, he shall be entitled to reinstatement and to the salaries and other benefits which he failed to receive during his suspension.

SECTION 7. Prescription of the Crime - The crime punishable under this Act shall prescribe in twenty (20) years. However, the right of the State to recover ownership of these waterways unlawfully acquired shall not be barred by estoppel, prescription or laches.



SECTION 8. Separability Clause - If any provisions of this Act or the application thereof to any person or circumstance is held involved or unconstitutional, the remaining provisions not otherwise declared as such shall not be affected thereby.

SECTION 9. Effectivity - This Act shall take effect immediately upon its approval.

Approved,

A handwritten signature in black ink, appearing to be "John", written vertically on the right side of the page.