

An Act to change the name of the Sangagulis Community School in the Municipality of Bayambang, Province of Pangasinán, to Cason Community School.

El PRESIDENTE. Léase la lista.

El SECRETARIO:

Senador Domocao Alonto	Ausente.
" Eulogio Balao	Sí.
" Edmundo B. Cea	Sí.
" Mariano J. Cuenco	Ausente.
Senadora Pacita M. González	Ausente.
Senador Oscar Ledesma	Ausente.
" Roseller T. Lim	Sí.
" Fernando López	Sí.
" Alejo Mabánag	Ausente.
" Ambrosio Padilla	Sí.
" Quintín Paredes	Sí.
" Emmanuel Peláez	Ausente.
" Cipriano P. Primicias	Sí.
" Gil J. Púyat	Sí.
" Claro M. Recto	Sí.
" Francisco Rodrigo	Sí.
" Rogelio de la Rosa	Sí.
" Decoroso Rosales	Ausente.
" Pedro Sabido	Sí.
" Lorenzo Sumulong	Sí.
" Lorenzo M. Tañada	Sí.
" Arturo M. Tolentino	Sí.
El PRESIDENTE	Sí.

(*El Secretario informa a la Mesa del resultado de la votación*)

El PRESIDENTE. Por dieciséis votos, queda aprobado el proyecto en tercera lectura.

CONSIDERACIÓN DEL C. R. NO. 469

(*Continuación*)

Senator PRIMICIAS. Mr. President, I ask that we resume consideration of House Bill No. 469, about Highway 54. The gentleman from Abra wishes to make a statement.

The PRESIDENT. Resumption of the consideration of House Bill No. 469 is in order. The gentleman from Abra is recognized.

Senator PAREDES. Mr. President, I filed a motion when this matter was first called for suspension of consideration until further decision and now I withdraw my objection. I found that the name of Don Epifanio de los Santos has been suggested by the distinguished Congressman from Rizal after hearing many petitions and opinions, and the only other name that is suggested as pointed out by the distinguished President of this Body is that of General MacArthur. Of course, between "Don Epifanio de los Santos" and "General MacArthur", the whole Filipino people will be with me if we choose Epifanio de los Santos. If only for this reason, I am asking that this bill be now approved.

Senator PRIMICIAS. Mr. President, I have here a letter of José P. Bantug, member of the Philippine Historical Committee and member of the José Rizal National Centennial Commission, a letter from Mr. Revilla, vice-president of the Philippine Historical Association, a letter from Mr. Esteban A. de Ocampo, secretary of the Philippine Association of College and University Professors, a resolution of the City Council of Quezon City, a resolution of the Provincial Board of Rizal, a resolution of the Municipal Council of Makati, and a resolution of the City Council of Pasay City, all endorsing the bill of Congressman Sumulong to name Highway 54 in honor of the late Epifanio de los Santos.

APROBACIÓN EN SEGUNDA LECTURA DEL C. R. NO. 469

The PRESIDENT. We shall now vote on the bill on second reading. As many as are in favor of the bill will please say *aye*. (*Several Senators: Aye.*) As many as are against will please say *noy*. (*Silence.*) House Bill No. 469 is approved on second reading.

SEGUNDA LECTURA Y CONSIDERACIÓN DEL S. NO. 293

Senator PRIMICIAS. Mr. President, I ask that we now consider Senate Bill No. 293.

The PRESIDENT. Consideration of Senate Bill No. 293 is now in order. The Secretary will please read the bill.

The SECRETARY:

ANTI-GRAFT ACT

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

SECTION 1. *Statement of Policy.*—It is hereby the policy of the Philippine Government, in line with the principle that a public office is a public trust, to repress certain acts of both public officials and private persons alike which constitute graft or corrupt practices or which may lead there to, and to make the enforcement of this policy a concern not only of the Government but also of every citizen.

SEC. 2. *Corrupt Practices of Public Officials.*—In addition to acts or omissions of public officials already penalized by existing law, the following shall constitute corrupt practices of any public official and are hereby declared to be unlawful:

(a) Taking advantage of the authority, power, or influence attached to his office, employment or commission, in order to serve his personal pecuniary interests or those of any other person.

(b) Directly or indirectly requesting or receiving any share, percentage or benefit, for himself or for any other person, in connection with any contract between the Government and any other party, wherein the public official intervenes or takes part in any manner or capacity whatsoever:

(c) Directly or indirectly requesting or receiving any

gift, present or other pecuniary or material benefit, for himself or for any other person, from any person for whom the public official has, in any manner or capacity, secured or obtained any Government permit or license.

(d) Causing any undue injury or giving any unwarranted benefits to any party in the discharge of his official functions thru manifest partiality or patent error of judgment.

(e) Neglecting or refusing, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage.

(f) Entering into a contract on behalf of the Government manifestly disadvantageous to the same, regardless of whether or not the public official profited thereby.

(g) Directly or indirectly having an interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

SEC. 3. *Prohibition on Private Individuals.*—It shall be unlawful for any private person to directly or indirectly request or receive any present, gift or material or pecuniary advantage from any other person having some business, transaction, application, or contract with the Government, by reason of any family or personal relations he may have with any public official.

SEC. 4. *Prohibition on Certain Relatives.*—It shall be unlawful for the spouse or for any relative, by consanguinity or affinity, within the third civil degree, of the President of the Philippines, the Vice-President of the Philippines, the President of the Senate, and the Speaker of the House of Representatives, to intervene in any manner or capacity whatsoever, directly or indirectly, in any business, transaction, contract or application with the Government,

SEC. 5. *Prohibition on Members of Congress.*—It shall be unlawful for any Senator or Member of the House of Representatives, during the period for which he was elected, to be financially interested, directly or indirectly, in any business or enterprise which shall have been favored or benefited by any law or resolution approved during his tenure of office.

SEC. 6. *Prohibition After Separation From Government.*—It shall be unlawful for any person, within two years after ceasing to be a public official, to accept any employment, agency, or other contract of services from any person or persons who may have been benefited by any recommendation, ruling, decision or action he may have made during his incumbency.

The person or persons offering or giving such employment, agency or other contract of services shall be equally guilty.

SEC. 7. *Statement of Assets and Liabilities.*—Every public official, within thirty days after assuming office, and within the month of January of every calendar year thereafter, shall prepare and file with the office of the corresponding Department Head a detailed statement of assets and liabilities, including a statement of the amounts and sources of his income and the amounts of his personal and family expenses for the next preceding calendar year.

The provisions of any law to the contrary notwithstanding, bank deposits, investments in all kinds of bonds or other securities, and paid up insurances shall be included in the statement of assets.

The failure to file the statements provided in this Section, or the making of false statements, shall be unlawful.

SEC. 8. *Dismissal Due to Unexplained Wealth.*—Without prejudice to the provisions of Republic Act Numbered One thousand three hundred seventy-nine, the fact that a public official has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary and to his other lawful income shall give rise to a *prima facie* presumption of graft or corruption in office, and, unless satisfactorily explained, shall be a ground for dismissal or removal. Properties in the name of the spouse and relatives within the second civil degree of such public official may be taken into consideration.

SEC. 9. *Penalties for Violations.*—(a) Any public official or person found guilty of having committed any of the unlawful acts or omissions enumerated in Sections 2, 3, 4, 5, and 6 of this Act shall be punished with imprisonment of not less than one year and not more than ten years, with perpetual disqualification from public office, and with the confiscation or forfeiture in favor of the Government of any unexplained wealth manifestly out of proportion to his salary and other lawful income.

Any complaining party who has instituted the criminal prosecution shall be entitled to recover, with priority over the forfeiture in favor of the Government, in the criminal action, double the amount that he may have given to the accused.

(b) Any public official found guilty of having violated any of the provisions of Section 7 hereof shall be punished by a fine of not less than P100 nor more than P1,000 or by imprisonment not exceeding one year, or by both fine and imprisonment in the discretion of the Court. The violation of Section 7 of this Act shall be sufficient cause for removal or dismissal of a public official, even if no criminal prosecution is instituted against him.

SEC. 10. *Immunity for Witnesses.*—Upon petition of the prosecution in any criminal case under the provisions of this Act, or under the provisions of the Revised Penal Code on bribery, the competent court may order that a witness whose testimony is essential for the prosecution shall be exempt from criminal prosecution for the acts upon which he is to testify, and such order shall be a bar to the prosecution of such witness for such acts.

In case the court should refuse to order such exemption, the testimony of the witness, whether given in court or before an investigating official, shall be incompetent evidence against him, and cannot be made the basis of any criminal prosecution against him, for the acts on which he testified.

The exemption provided in this Section shall not be a bar to prosecution and conviction for perjury or false testimony committed by the witness.

SEC. 11. *Prosecution by Private Parties.*—If after investigation of a complaint filed against any public official or person under the provisions of this Act or under the provisions of the Revised Penal Code on bribery, the prosecuting attorney of the Government shall refuse to file an information for lack of evidence, the complaining party may file in the proper court a complaint in the name of the People of the Philippines, which shall have the same force and effect as if signed and filed by the fiscal or prosecuting attorney. The complaint shall be signed and sworn to by the complaining party before the Judge of the Court in which it is to be filed.

Upon the presentation of the complaint to him the Judge shall immediately conduct a summary preliminary investigation, and shall issue the corresponding warrant of arrest only upon being convinced that a *prima facie* case exists against the accused.

The prosecution shall be conducted under the responsibility of the complaining party, who may designate a private prosecutor or request any Government prosecuting attorney to assist him.

Any person who files an unfounded complaint under the provisions of this Section shall be deemed to have committed an offense, which shall be punished by imprisonment of not less than six months nor more than five years. He shall furthermore be liable for actual and moral damages, including attorney's fees, which may be allowed in the criminal case against him or in a separate civil action.

SEC. 12. *Independent Prosecutors.*—There is hereby created, under the administrative supervision of the Department of Justice, an independent body of investigators and prosecutors, to be known as the Citizens Integrity Commission, composed of three Commissioners and twelve investigator-prosecutors, who shall hold office for a term of six years.

Without in any manner impairing the powers, duties, and functions of existing investigating and prosecution officials and agencies of the Government, the Citizens Integrity Commission shall have the power to investigate and prosecute any violation of the provisions of this Act or any violation of the Revised Penal Code on bribery, irrespective of the place where such violation was committed. For this purpose, it shall have the power to issue *subpoena* and/or *subpoena duces tecum* to any person anywhere in the Philippines.

After due investigation, in which the accused shall be given an opportunity by himself and/or counsel to cross-examine the witnesses against him, the corresponding information shall be filed only upon a unanimous decision of the three Commissioners. The information may be signed by any of the Commissioners or investigator-prosecutors, who shall have the same power and authority as are now conferred by law on provincial fiscals in the prosecution of cases filed by them.

The Commissioners and investigator-prosecutors shall be members of the Bar, known for their honesty and integrity, and must not be affiliated with any political party or connected or related with any member of a political party, whether in the past or at the time of his selection.

They shall be selected in the following manner: The President or head of any political party which polled at least ten *percentum* of the votes cast in the last preceding Presidential elections may submit the names proposed by the party for Commissioner and for investigator-prosecutors, to the Secretary of Justice within thirty days after the approval of this Act. After this period has expired, the Secretary shall immediately send to all parties who have submitted names a complete list of all the names submitted to him. Within ten days after such notification, any party head or president may object to any name, and such name shall be stricken by the Secretary of Justice from the list. If after striking out the names objected to, there shall remain on the list more than the number of Commissioners and/or investigators herein provided, then the final list shall be made by the Secretary of Justice by drawing lots in the presence of the representatives of the parties that have sub-

mitted names. If, however, the number of names left should be less than that provided herein, the Secretary of Justice shall request the parties to propose new names within five days, and the same procedure shall then be followed until the list of three Commissioners and twelve investigator-prosecutors shall have been completed. Vacancies shall be filled in the same manner.

The Commissioners shall, by rotation, choose a chairman among themselves at the beginning of each calendar year.

The Commissioners shall have a salary of twelve thousand pesos each, and the investigator-prosecutors eight thousand four hundred pesos each.

SEC. 13. *Competent Court.*—All prosecutors under this Act shall be within the original jurisdiction of the Court of First Instance.

SEC. 14. *Definitions of Terms.*—The term "Government" as used in this Act shall include the national government, the local governments, the government-owned or controlled corporations, and all other instrumentalities or agencies of the Republic of the Philippines.

The term "public official" as used herein shall include elective and appointive officials, permanent or temporary, whether in the classified or unclassified civil service, receiving compensation from the Government as defined in the first paragraph of this Section.

SEC. 15. *Prescription of Offenses.*—All offenses defined in this Act shall prescribe in five years.

SEC. 16. *Authority to appropriate.*—There is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated by law, the sum of five hundred thousand pesos, to carry out the provisions of this Act.

SEC. 17. *Special Trust Fund from Contributions.*—Authority is hereby given to the Secretary of Justice to receive voluntary contributions from the public to help in the operational expenses of the Citizens Integrity Commission. All such contributions shall go into and form a special trust fund which shall not form part of the public or government funds. Such fund shall be subject to disposal by the Commission, subject to auditing requirements.

SEC. 18. *Separability Clause.*—If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 19. *Effective Date.*—This Act shall take effect on its approval, but for the purpose of determining unexplained wealth, all property acquired by a public official since he assumed office shall be taken into consideration.

Senator PRIMICIAS. Mr. President, the distinguished Chairman of the Committee on Revision of Laws and author of the bill, Senator Tolentino, will sponsor this bill.

The PRESIDENT. The gentleman from Manila has the floor.

PONENCIA DEL SEN. TOLENTINO

Senator TOLENTINO. Mr. President and Distinguished Members of the Senate: The stability of representative government depends to a large ex-

tent upon the trust and the confidence which the sovereign people have in the men and women who are delegated to conduct the affairs of administration, whether the delegation be direct by election or indirect by appointment to public office. In an effort to help maintain and strengthen this faith and confidence, so far as it is possible to do so from the legislative department of the Government, the present bill, entitled the "Anti-Graft Act", has been presented.

We are not unmindful of the fact that the desire to maintain a clean and honest government will and can materialize into living reality only by the faithful enforcement of the laws by the executive department and their unflinching application by the judicial department of the Government. We already have laws defining some offenses committed by public officers, contained in the Revised Penal Code; but all of these laws intended to attain purity and fidelity in public service will be dead letters, if the executing arm of the Government, in self-paralysis, does not move to prosecute those who prostitute public office. In such cases, the legislative body cannot do anything effective, because its hands are tied by the constitutional principle of separation of powers. The Congress itself cannot enforce and apply these penal laws. So, we have to limit ourselves to the task of legislation, which seems to be the only legal means open to us to contribute to the practical realization of the principle that "a public office is a public trust."

The present bill is designed largely to fill a gap which exists in our penal laws, and to treat with more severity certain offenses which now may be covered by existing law. It proceeds from the assumption that there are reprehensible acts, that could or may be committed by public officials, constituting graft and corrupt practices, but which are not yet penalized by law, or in which the law is not quite clear and therefore by the operation of the presumption of innocence such acts may remain unpunished. It is said that not all acts which are immoral are also illegal; but in the particular field of public service, we submit, that what is immoral must likewise be declared illegal and consequently repressed and penalized.

This bill is aimed against graft, and "graft" is defined as "the acquisition of gain or advantage by dishonest, unfair, or sordid means, especially through the abuse of one's position or influence in politics, business, etc." (Webster) With this in mind the principal provisions of this bill are based on the premise, that although it is the right of every

citizen to provide for his future, he should do so by legitimate means; and in the case of the public official, never—I repeat, never—by the use of the power, authority, or influence attached to his position or office.

A corollary premise is that a public official in his actuations must not only be clean, but above suspicion, because when the mind of the people is poisoned with suspicion engendered by the acts of public officials, even in the absence of concrete evidence of personal profit by such officials, the trust and confidence of the people in the Government will be undermined, and this is something we must always endeavor to prevent. The standard of conduct in the performance of duties which must be demanded of public officials must be higher than that of private citizens in the conduct of their personal affairs.

These two basic premises are the underlying principles of the various provisions of sections 2, 5, 6, 7, and 8, of this bill.

Under section 2, we define certain corrupt practices of public officials, which include various forms of influence peddling, which may not amount to bribery, direct or indirect; entering into contracts manifestly disadvantageous to the Government; holding interests prohibited by the Constitution or by law; causing undue injury or giving unwarranted benefits to any party through manifest partiality or patent error of judgment; and delaying action on matters pending before him for the purpose of obtaining some pecuniary benefits from interested parties.

Under section 5, members of the Congress are prohibited, during the term for which they were elected, from having any interest in any business or enterprise directly benefited by any act or resolution approved during such term.

Under section 6, former public officials are prohibited, within two years after separation from the service, from accepting any employment from any person who was benefited by any ruling, decision, recommendation, or action they may have made or taken during their incumbency.

Under section 7, public officials are required to file annual statements of assets and liabilities, and of actual income and expenses; and under section 8, the acquisition of unexplained wealth during the incumbency of a public official is made a ground for dismissal or removal.

In the period of amendments, I shall propose for the consideration of this Chamber, a provision to the effect that no public official who is under pros-

ecution for any act of graft or corruption, or is under administrative investigation, shall be allowed to voluntarily resign or retire, or be given the benefit of any retirement or gratuity law until after he has been acquitted or cleared in such prosecution or investigation.

In the fight against graft and corruption, however, we must not limit our attention to the public official. Persons who are not in public office, but who by reason of their family or personal relations with public officials are in a position to enrich themselves by the use of the influence attached to or inherent in such relations, may do as much damage to public trust and confidence in the Government as do corrupt officials themselves. Even when the official concerned may be personally clean and honest, the presence of such private persons close to him, who peddle the influence they may have, over him or because of him, will certainly place such public official under a dark cloud of suspicion as to his own personal integrity, if they do not actually lead him to the stinking morass of corruption. This is the basis for the provisions of section 3, and 4, of the bill.

Under section 3, private persons who peddle influence are penalized; and under section 4, the spouse and certain relatives of the heads of the executive and legislative departments of the Government are prohibited from intervening in any transaction with the Government.

The effective implementation and enforcement of the penal provisions of this bill and of the provisions of the Revised Penal Code on offenses committed by public officers, may however, be prevented by certain circumstances under existing laws which could set at naught our efforts to repress graft and corruption.

For instance, with particular reference to the crime of bribery, under the Revised Penal Code, both the public official receiving the bribe and the private person giving the bribe are penalized with equal penalties. And in the period of amendments, I shall myself propose that in this bill there be included a provision penalizing any person who offers or asks another to commit any of the acts punished by this bill. The practical difficulty in the prosecution of the public official in such cases, is that the fear of being himself criminally prosecuted will deter a private citizen from testifying against the offending public official. To overcome this difficulty, section 10 has been inserted in the bill.

Under section 10, when the testimony of a witness is essential for the prosecution of the corrupt

official, such witness, even if he himself was a party to the unlawful act, may be exempted by the competent court from criminal liability, and even if not so exempted because his testimony is not essential for the conviction of the public official, such testimony will nevertheless be privileged and cannot be used against him should he himself be prosecuted.

Another difficulty, actual or imagined, which has been pointed out, in the prosecution of cases of graft and corruption, sometimes take a political color, but its validity cannot be discounted for this reason alone. It is sometimes said that since the prosecuting attorneys or fiscals are under the Department of Justice, and the Department of Justice in turn is under the President of the Philippines, who, by virtue of the Constitution has control of all the executive departments, bureaus or offices of the Government, it is possible that the Executive, either directly or through the Secretary of Justice, may, for some reason, prevent the prosecution of certain corrupt officials.

This bill, as originally filed, provides for a body of independent prosecutors, recommended and approved by all political parties which polled at least 10% of the votes cast in the last Presidential election. But this provision has been recommended by your Committee to be deleted, because practically all those who appeared in the public hearings and/or submitted memoranda, objected to the intervention of political parties in the selection of prosecutors, on the ground that the prosecutors so recommended by political parties may tend to treat with favor accused persons belonging respectively to the political parties which recommended them.

But the more important provision which will meet the supposed difficulty of our prosecuting officers or agencies being under the control of the President, has been maintained; namely, section 11, which allows prosecution by private parties, when the fiscal or prosecuting attorney refuses to file the corresponding information in court, but with proper safeguards against the abuse of this right. To encourage private parties to prosecute erring officials, section 9 allows a complaining party in the criminal case to recover double the amount he may have given to the accused.

In the period of amendments, I shall propose for your consideration a provision to the effect that in prosecutions under this bill and under the Revised Penal Code on bribery, the provisions of any law to the contrary notwithstanding, the income tax returns and/or bank statements of the accused may be brought before the court by *subpoena duces tecum*,

when they are relevant and material to the case. In other words, we will give to the prosecution all the available means of proof, brushing aside from the public official the cloak of statutory privileges given to private citizens.

With these innovations, substantial and procedural, contained in this bill, we believe that we will be taking a long legislative stride in the direction of cleaner government and greater public confidence in the administration of public affairs. We realize and admit that this bill is by no means perfect; the acts and omissions we have enumerated as constituting graft and corruption may not be exhaustive, and there may be others known to the distinguished members of this Chamber, which we will only be too glad to have incorporated in this measure. Any suggestions for the improvement of this bill, in order that its objectives may be better attained, will certainly be most welcome.

In concluding these remarks, Mr. President, may I just say that in the public hearings held on this bill by your Committee, there was unanimous endorsement of its aims and objectives, and of its provisions as a whole, although suggestions of amendments were made, mostly in matters of style or phraseology. Among those who thus appeared and/or submitted memoranda urging that this bill, after improvement be approved, are the following: former Supreme Court Chief Justice Manuel V. Moran; former Justice Mariano H. de Joya; Solicitor General Edilberto Barot; Election Commissioner Gaudencio García; Atty. Abelardo Subido; Atty. Alberto Jiménez; the League of Women Voters of the Philippines; the Women Lawyers Association; and the Federation of Bar Associations of the Philippines.

Mr. President, now, I would be ready to hear remarks or suggestions from the members of this Body.

Senator CEA. Mr. President, will the gentleman yield?

The PRESIDENT. The gentleman may yield if he so desires.

Senator TOLENTINO. Gladly.

Senator CEA. I would like to inform Your Honor that I am in favor of this bill, but I would like to ask a few questions to clarify certain doubts that I have. Under this bill, Your Honor, who is supposed to initiate the prosecution of offense described therein?

Senator TOLENTINO. Well, the usual rules of procedure will still be followed. Ordinarily, a com-

plainant may go to the fiscal's office or to the justice of the peace and file a complaint. The only exception being made is that in the event the prosecuting attorney refrains or refuses to file the corresponding information after investigation, then the private individual has a recourse to go to the court directly.

Senator CEA. Under this bill, Your Honor is creating the Citizens Integrity Commission. What is the relationship between this Commission and the fiscal of the province?

Senator TOLENTINO. Well, Your Honor, that has been recommended by the Committee to be deleted. So, I did not discuss that anymore.

Senator CEA. Which one?

Senator TOLENTINO. The Integrity Commission, because the main objection there is the manner of selection. The selection and approval is through the different political parties. In order to avoid the influence of political parties in the prosecution, we should do away with such a body. So, the bill, as it is now presented to this Chamber, contains that recommendation of the Committee to delete that.

Senator CEA. My doubt is clarified. Another question. In case a private person prosecutes the case himself, is he supposed to go on prosecuting the case until the case is finished in the appellate court or may the Solicitor General intervene later?

Senator TOLENTINO. In that case, the appeal is not quite clear in the bill, I must confess. But if the idea is if a private person himself prosecutes the case, then he can do so himself or, under the bill, he may designate a private prosecutor or request for any government prosecuting attorney to assist him.

Perhaps, we may clarify this with respect to the matter of appeal, because that part of the bill concerns the trial of the case.

Senator CEA. Yes, there is nothing here.

Senator TOLENTINO. I would be very happy to receive any suggestions in any manner in which the appeal may be conducted.

Senator CEA. Supposing a private person appears before the provincial fiscal and complains against a certain act of a government official and the provincial fiscal tells the complaining party that there is no *prima facie* case against said public official. And so, the private person files the complaint himself. After the case has been docketed by the Justice of the Peace court, preliminary investigation is conducted and then the case is elevated to the Court of First Instance for trial on the merits.

Supposing the fiscal claims jurisdiction of the case, what would be the position of the private per-

son who initiated the case before the Justice of the Peace court?

Senator TOLENTINO. I think, what would happen in that case as presented by Your Honor is that, in the Justice of the Peace court it would be the complaining party, the private person who usually files the complaint. The Justice of the Peace may in-dorse that to the fiscal when it is cognizable by the Court of First Instance and the fiscal, naturally, will have jurisdiction.

It is at this stage where the fiscal refuses to file the information that the private party may go directly to the Court of First Instance and file the complaint himself with the same legal effect as if it was signed by the fiscal.

Senator CEA. Supposing the private party files the complaint in the Court of First Instance, and after the case has been filed there, the fiscal asserts his jurisdiction to handle the case. What would be the position of the private person if he has no confidence in the fiscal?

Senator TOLENTINO. The bill provides in Section 11, third paragraph the following:

"The prosecution shall be conducted under the responsibility of the complaining party."

So, the fiscal cannot intrude against the will of the complaining party, because, precisely, the complaining party was forced to go to the court himself because the fiscal did not want to prosecute. So, the complaining party is given the responsibility for the prosecution although he may designate a private prosecutor or some government prosecuting attorney, it might be the fiscal, to assist him.

Senator CEA. So, as between the fiscal and the private person, the private person is preferred.

Senator TOLENTINO. Yes, because he is responsible for the prosecution.

Senator CEA. Supposing the Secretary of Justice would send a special prosecutor to prosecute the case for the Government, what would be the position of the private person who filed the case?

Senator TOLENTINO. The private person would still have control over the case. In other words, he may agree that the case be prosecuted by the fiscal and to assist him in the prosecution of the case. But that is at his option and he may refuse or he may himself prosecute.

Senator CEA. Supposing the case is on appeal to the Supreme Court and the Solicitor General wants also to assert his rights to handle the case. What would be the position of the private person who filed the case?

Senator TOLENTINO. As it is, it is not quite clear in the bill. But I would say following the same philosophy underlying this provision that we should allow the private person to continue, although at his option he may allow the Solicitor General to intervene. He should have the primary responsibility.

Senator CEA. Even against the claims of the Solicitor General?

Senator TOLENTINO. Yes.

Senator LIM. Mr. President, will the gentleman yield?

The PRESIDENT. The gentleman may yield if he so desires.

Senator TOLENTINO. Very gladly.

Senator LIM. I believe there is no one in this hall, not a single Member of the Senate who would disagree in principle with the noble purpose of this bill. But as it is written, I dare say that, perhaps, it would be subjected to a lot of amendments.

Senator TOLENTINO. That would be most welcome.

Senator LIM. I filed a bill known as the Anti-Graft Tribunal, wherein I proposed that there be an Anti-Graft Tribunal to be composed of nine justices, whose qualifications shall be the same, at least, as those of the judges of the Court of First Instance. Three of the nine to belong to the party in power; three to the next party, or rather, to the biggest minority party; and three justices of the Court of Appeals.

The reason why I chose justices of the Court of Appeals is in order that the Supreme Court may be free to review the cases on appeal from the Court of Appeals. In other words, basically, my purpose for the composition of the Anti-Graft Tribunal is something like the Electoral Tribunal where we have three members belonging to the party in power; three to the biggest minority party and three justices of the Supreme Court. I came down to the Court of Appeals because, as I stated, I would like the Supreme Court to be independent when the cases coming up from the Anti-Graft Tribunal are raised to them on appeal.

I proposed also that the prosecutor be elected for a six-year term without reelection and that they should not be allowed to run under any political party and that their election shall coincide with any proximate election for congressman, senators and governors or even presidential election, whichever election is proximate after the approval of my bill.

Doesn't Your Honor believe, that as his bill which gives the Court of First Instance juris-

diction over these cases of graft and corruption, it would not be as strong as if we were to create the Anti-Graft Tribunal as proposed by your humble servant? Many judges of the Court of First Instance, Your Honor, even though I do not want to cast aspersions on them, are, perhaps, aspiring to become justices of the Court of Appeals and still some may still be subjected to political influence so they may not act independently for fear that if they are antagonistic to the powers that be they may have no chance to go up to the Supreme Court, and that would be a very weak link in the whole set-up of the Anti-graft Court and, perhaps, it can defeat the implementation of this bill or bills of this nature, whereas if my proposal is approved, I believe it would be stronger because the Court of First Instance would have no jurisdiction over graft and corruption and only the court or the tribunal with that composition as explained by me will handle all these cases exclusively subject to appeal to the Supreme Court. Does not Your Honor agree that perhaps an amendment to insert that provision in my Anti-Graft Bill creating the Anti-Graft Tribunal would be welcomed by Your Honor and your Committee?

Senator TOLENTINO. Your Honor, I would like to comment at this stage on the question of a tribunal, because I would rather feel that a matter like that should be left to the proper committee of the Chamber, that is, the Committee on Judiciary, that is why Your Honor will see that in the committee report on this bill the Committee reporting out this bill has recommended to delete Section 13 which refers to the jurisdiction of the court, because we would like that the matter of jurisdiction be left to the floor for discussion in case a bill on this matter should be recommended by the Committee on Justice. I believe that Your Honor's bill is in the Committee on Justice now and will certainly be considered by that Committee and I do not want to anticipate my feelings with respect to the composition of the tribunal that Your Honor is proposing. With respect to the prosecutors, that was also one of the reasons that induced the Committee to delete Section 12 on independent prosecutors because from newspaper reports we understood that the bills pending in the Committee on Justice about this special tribunal also contains provisions regarding prosecutors and we would like to leave that to the Committee on Justice so that there may be a more thorough consideration of it by the Committee that is properly charged with that matter in this Chamber, although if Your Honor will forgive me, I would

like to state that perhaps it would not be a wise idea to select prosecutors for this purpose because when these prosecutors go in an election, the ones who contribute most heavily for their campaign funds are the ones who will make money from graft and corruption and it would handicap their actions as prosecutors in the tribunal.

*(En este momento el Presidente Protémpore,
Sen. López, asume la presidencia por
designación de la Mesa)*

Senator LIM. But in the United States, most of the attorneys are elected precisely under that condition that they be elected not under any political banner and for a period of six years without reelection. In the United States they found it to be a very effective way by electing their district attorneys and since they are not going to be allowed to run for reelection and since their term of office is for six years only, I do not believe that that fear of Your Honor would actually be justifiable.

Senator TOLENTINO. Well, I was just voicing an opinion.

Senator LIM. Since Your Honor gave his objections to the sections sought to be deleted, can we not coordinate the bills in the Committee on Judiciary and this present bill so that we can just approve one single piece of legislation on these matters and so that the Senators could very intelligently propose amendments to this bill under consideration in view of the fact, as Your Honor stated, that in the matter of tribunal and the matter of prosecutors, Your Honor has chosen to leave them out in the meantime because there are bills pending in the Committee on Judiciary? Cannot these Committees sit down together and formulate one bill embodying all these salient provisions on graft and corruption in your bill and the creation of the tribunal and the matter of prosecutors?

Senator TOLENTINO. That may be a wise suggestion but the point I would like to bring out is that this bill can be approved and later on we can take action on the bill on special tribunal or vice-versa, we approve first the bill on special tribunal and then we act on this, and there will be no unnecessary inconsistency because the Committee on Revision of Laws has deleted these provisions to leave the way open to the Committee on Justice to formulate whatever recommendation it may wish to formulate with respect to the aspect of the agency that will handle prosecution as well as trials of cases arising under this bill and, if I am not mistaken, the provisions of the bill that has

been presented on the special tribunal contemplate other laws to be passed by Congress, whose violations may fall under the jurisdiction of such tribunal. So, if Your Honor does not insist, I would rather that we proceed with this bill and then when the bill on the special tribunal comes up, we can discuss it. In the same manner, as Your Honor will recall, we had existing laws on treason before and then a special tribunal was created about prosecutors in a different bill.

Senator LIM. I am satisfied with Your Honor's explanation now that I am informed that the Committee has proposed an amendment to delete these sections 12 and 13. Another point, under Section 9 of Your Honor's bill, Your Honor proposes that the complainant who has initiated a case of graft and corruption falling under any of those numerous specified definitions in the bill will be entitled even with priority against any government claim to twice the amount that he has offered to the corrupt official. Now, does not Your Honor believe that that would be tantamount to amending to some extent our law on bribery because we would be rewarding the offeror of the bribe, the one who bribed would even receive twice the amount? If he, for example, bribed a public official with ₱5,000 and he will be given ₱10,000 as reward although this fellow was the one who bribed, that would be putting the public official at the mercy of bribers because, if a public official at a moment of weakness accepts that ₱5,000.00 he will be in constant fear that, as under section 9 the offeror of the bribe would even get twice the amount, said offeror of the bribe will go ahead and tell him, "you receive ₱5,000 from me the other day. Now, I want you to do this. I will not sue you. If you do not accept this bribe, I will sue you. Anyway, I will get ₱10,000. I will recover what I gave you the other day." We will be putting the public official at the mercy of the whims and caprices of the offeror of the bribe, and allow him to accept the bribe, if we are going to approve this provision.

Senator TOLENTINO. I would like to explain what I believe is the moral basis of the provision. If a private person goes to a public official and makes the offer to give him some money, he can be penalized under the law on bribery. If the public official refuses, there will be nothing received by him, while this person who gives the offer becomes guilty of the violation of the law on bribery and maybe the provisions of this bill. On the other hand, supposing the public official accepts, he com-

mits an offense under the law on bribery. Why should the public official be guilty if he refuses the person who made the offer? Your Honor, I believe that this provision will precisely give the public official defense in the thought that if he accepts what is being offered to him, he may later on, upon the complaint of this very person, if displeased, be prosecuted by him and this person himself could recover twice the amount that is given. In other words, the prohibition is not merely a punitive provision—it is a deterrent, sort of a deterrent, because the public official will think that he will not only have that criminal liability but he will have also liability of double the amount.

Senator LIM. In other words, in that case, the offeror, when the public official refuses, will be accused of corruption of public official.

Senator TOLENTINO. Yes, if he was offering a bribe to the public official—attempted bribery.

Senator LIM. Those are the only points I would like clarified, Your Honor.

Senator PADILLA. Mr. President, will the gentleman yield to a few clarifying questions?

The PRESIDENT PRO TEMPORE. The gentleman may yield if he so desires.

Senator TOLENTINO. Very gladly, Mr. President.

Senator PADILLA. I wish to state that I am in full accord with the objectives of this bill. As a matter of fact I feel that this becomes now a necessity if the administration is sincere in its campaign, at least announced campaign, against graft and corruption. I am particularly in favor of this bill because I notice that at least two sections hereof have embodied two of my previous bills filed last year. I am referring to Section 7, Statement of Assets and Liabilities, which I proposed in my Senate Bill No. 138 filed last year. Also, Section 10, regarding immunity for witnesses. I had the same principle or objective when I filed my Senate Bill No. 82 granting an exempting circumstance to either party to a bribery case who would denounce the shady deal and testify for the prosecution and conviction of the guilty. And of course, Your Honor has done a very good job in this Anti-Graft Law because it has widened the unlawful and corrupt practices of public officials which may not be covered by the provisions of the Penal Code on bribery, especially referring to private individuals.

Senator TOLENTINO. Thank you, Your Honor.

Senator PADILLA. Now, just for some clarification, if Your Honor please. In Section 10, the

immunity is for witnesses. I suppose the intention is to also extend this immunity to the complainant, because the complainant would obviously be one of the most important witnesses.

Senator TOLENTINO. Yes. You are correct there, Your Honor.

Senator PADILLA. Now, in Section 10, to which I also agree, a charge made by a private person may not be favorably considered by the prosecuting officer and so this section allows the complainant or the private party to file the complaint and prosecute the case under his responsibility. I am inviting Your Honor's attention to page 6, line 4, Section 11, to the words "unfounded complaint", because if the complaint is unfounded, now I certainly agree with Your Honor that the complainant should not make a mockery of this and he should be penalized if he resorts to charging honest public officials with so-called dishonest or corrupt practices. But there is a doubt in my mind as to what is the interpretation to be given to that adjective "unfounded". Does that mean that if the complaint or information against the public official for this corrupt practice should not succeed, in other words, should the court acquit the public official, that the complainant has filed an unfounded complaint and, therefore, may be held liable for not only an offense but also for damages.

Senator TOLENTINO. I think Your Honor's observation is very well taken. My attention has been called to this also, or the attention of the Committee has been called to this also, and the feeling of the Committee—and I agree with that—is that the mere fact of acquittal should not in itself make the complaint liable under this provision that Your Honor has cited, because a complainant may have actually acted in the best of faith and he may have some evidence that he thought and which the judge, in issuing the warrant of arrest, thought that there was a *prima facie* case. Perhaps we could modify this to show some kind of bad faith to make the complainant liable, and I would be very glad to consider an amendment as to the right phraseology that we should use to convey that idea—that there must be some bad faith on the part of the complainant to make him responsible under this provision.

Senator PADILLA. And that bad faith to be based on facts that have been elicited during the trial and have been found true or established in the *decision of the court*.

Senator TOLENTINO. Yes, Your Honor.

Senator PADILLA. Now, Your Honor, there was

a reference here by the distinguished gentleman from Zamboanga about the anti-graft court. Apparently the idea is to give jurisdiction over these graft cases to more or less an independent court that would not be subject to possible influence. Now, I personally would not—with the pardon of the gentleman from Zamboanga—favor the creation of additional courts, but there may be some basis for that observation that the complainant may file the complaint and he may have a meritorious case. Perhaps he has presented convincing evidence, but the judge presiding the court would dismiss the information or acquit the official. Now, considering, Your Honor, that we are giving the complainant in this case, in this bill, a right that he ordinarily does not have, that is, to file a criminal case because under the Revised Penal Code his right to file a complaint is limited to very specified semi-private or public crimes, would Your Honor consider that in case of a decision on these cases, either party may appeal the decision rendered by the Court of First Instance? Now, I wish to state, if Your Honor please, that one of the first bills that I filed last year was to grant the prosecution, the State or the complainant, the right to appeal judgments of dismissal and acquittal in criminal cases, because I felt that sometimes there are miscarriages of justice, and even under our present law, if the court even makes a mistake in the imposition of the penalty or makes a clear error of law, no longer in the appreciation of facts, the prosecution is helpless and, sometimes, all of these good intentions may be destroyed, may be prevented, by just the whim of a judge who, perhaps, under other extraneous influences, will just acquit a corrupt public official on the ground of reasonable doubt. Now, would Your Honor consider that the best guarantee for an impartial adjudication of these graft cases is not so much the creation of an anti-graft court, not even the creation of so-called independent prosecutors, but to give either party, the official concerned, or the complainant the privilege, at least in these cases if we are not willing to extend that privilege to other criminal cases, to allow the complainant to appeal the adverse decision?

Senator TOLENTINO. Well, Your Honor, I am in full accord with the objectives that Your Honor should like to attain by the suggestion you have made, and I agree with Your Honor that there are times when there is miscarriage of justice *actually made in the acquittal of an accused and the prosecution has no remedy to appeal*. My only fear is that we may go against the constitutional

prohibition on double jeopardy, but I certainly recognize that the prosecution is not allowed to appeal because of the constitutional prohibition on double jeopardy. Now, if Your Honor can suggest some kind of phraseology by which we cannot go against this constitutional prohibition as already interpreted by the court, I will be very glad to consider Your Honor's suggestion.

Senator PADILLA. Well, I am glad that the suggestion meets with Your Honor's favorable consideration, except for possible obstacle that it might violate the principle of double jeopardy. Now, when I filed that bill, I, of course, discussed or explained more or less in the preliminary explanatory note that the constitutional prohibition is only against placing a person twice in jeopardy for the same offense and that this is just a judicial interpretation made by the United States Supreme Court in the case of *U. S. vs. Kepner* of a divided decision of five to four and with a very illuminating decision of Justice Holmes stating that there is no double prosecution because the same person is only charged of one offense and there is only one proceeding. In other words, the appeal is a continuing and same proceeding. Now, since that American decision of five to four was promulgated, our Supreme Court has followed that decision without possible reexamination of the soundness of that judicial interpretation. Now, I believe that there is no violation of the constitution. It is just a matter of judicial interpretation as to whether an appeal on the same case involving the same offense which is but a continuation of the original proceedings can be considered as placing the accused in double jeopardy. Now, considering that we see that that is a judicial interpretation and in matters of policy Congress has the right to set the policy unless of course it is manifestly in violation of a definite and express constitutional provision, does not Your Honor believe that if we place in this bill a paragraph to that effect that that would be sufficient to allow the complainant or the state to appeal at least in these particular cases? Of course, I realize in case the complainant should appeal in a particular case, the accused may raise that constitutional question on appeal to the Supreme Court. That can be expected, but that perhaps may even be one step that will give our highest tribunal an opportunity to reexamine the merits or demerits of that split decision of the United States Supreme Court in the *U. S. vs. Kepner* case.

Senator TOLENTINO. As I have said already, I agree with the idea of having the complainant

appeal. My only worry is the constitutional prohibition. And then this view, at least Your Honor's suggestion, strengthens the case whereby this bill allows a private party to prosecute. We practically give a duty *quasi judicial* in nature to the prosecution inasmuch as the maintenance of a clean administration is not only the interest of the Government but of every citizen in the country. And I would be willing to go if the members of the Chamber would be willing to go to that idea of trying to test the question of interpretation of that constitutional prohibition embodied in this bill because we do not lose anything by that. It will take two-thirds of the Supreme Court to declare a law unconstitutional and if we do not get that two-thirds, we will let Congress interpret what is meant by double jeopardy.

Senator PADILLA. I am very glad to hear Your Honor's comment on that point, and I made that suggestion because I feel that our good intentions, our laudable objectives may be nullified by some arbitrary decisions of some undeserving members of the bench. Of course, I have confidence in the integrity of the members of the judiciary, but we cannot deny that there may be a few who would resort to the simple expedient of just dismissing the case or acquitting the accused because after all he is confident that his verdict cannot be reviewed. As a matter of fact, I am afraid there are many decisions that are already tainted with that fatal defect. There are some decisions that are clearly erroneous even in the application of the law, and yet the state is helpless because of that interpretation that we cannot even correct a judgment in a criminal case, not even increase the penalty, because that has been interpreted as constituting double jeopardy. I am very happy that at least that thought meets with Your Honor's favorable consideration, and during the period of amendments, if Your Honor will permit me, I will suggest an addition of one paragraph in this bill.

Senator TOLENTINO. That is a welcome suggestion, Your Honor, and perhaps my reaction viewing with favor the suggestion Your Honor has made, is precisely that there is at present no more remedy if a judge, whether acting arbitrarily or in good faith, dismisses an accused, and not all judges may be acting in good faith, and yet there is no more remedy to correct. So, I am willing to go with that idea of testing this matter before the Supreme Court.

Senator TAÑADA. Mr. President, will the gentleman yield?

The PRESIDENT PRO TEMPORE. The gentleman may yield if he so pleases.

Senator TOLENTINO. Gladly.

Senator TAÑADA. First, I would like to congratulate Your Honor for this very wonderful piece of legislation. It is perhaps one of the most important bills presented in this Body considering the position in which our country and our Government are found today. But, as Your Honor said, the bill is not perfect and will perhaps permit amendments. I suppose we are not now trying to discuss this bill very thoroughly, we are just exploring the field, so to speak, and in that spirit I would like to ask Your Honor a few questions concerning Section 4 and 5 of the bill. Section 4 is that provision of the bill which prohibits the espouse or any relative by consanguinity within the third degree of the President of the Philippines, Vice-President of the Philippines, the President of the Senate, and the Speaker of the House of Representatives, to intervene in any manner or capacity, in any business, transaction, contract or application with the Government. Now, if we are going to be realistic, doesn't Your Honor think that we should include the Floor Leaders of both Houses of Congress? Because, Your Honor, there is no question that at least in the case of our Floor Leader, he wields tremendous powers, which are, perhaps, as great as the powers wielded by the President of this Body. So, I say, if we would be realistic, doesn't Your Honor think that we should include the Floor Leader?

Senator TOLENTINO. Well, Your Honor, I would like to go to the basis of the provision. If Your Honor feels that the reason for the provision as it is would cover other officials, not only the Floor Leader but other officials of both Chambers of Congress, I would be very glad to consider the suggestion governing other officials.

But the basis why we made this an absolute prohibition is not because of the personal influence of the officials themselves. Because this provision contemplates a case where the official himself, such as the President, the Vice-President, the Senate President or the Speaker may not know what is happening, but his relatives because of that relationship with the leaders or the heads of the political departments of the Government may make use of that influence so that they themselves may influence the lower officials in the Government.

Senator TAÑADA. That is precisely the point, Your Honor.

Senator TOLENTINO. If Your Honor feels that the Floor Leader has as much influence as that case

to be carried by a relative so that this relative himself can exert the influence without the intervention of the Floor Leader and that is the situation, I would be very glad to consider that and leave it to the Chamber.

Senator TAÑADA. Frankly, I think that is the situation. I am merely asking this question just to find from the author of the bill the underlying or basic philosophy of this provision so that when we come to the period of amendments we could present what we believe to be the necessary amendments in order to improve the bill.

Now, with respect to Section 5. This is one of the most important sections because it is all-embracing and it affects especially the Members of this Body. I would want to know really the full scope of this provision, and I will read the provision:

"Sec. 5. Prohibition on Members of Congress.—It shall be unlawful for any Senator or Member of the House of Representatives, during the period for which he was elected to be financially interested, directly or indirectly, in any business or enterprise which shall have been favored or benefited by any law or resolution approved during his tenure of office."

Now, I have this question to ask: We have many bills now before this Body and one of them is a bill authored by the distinguished gentleman from Pampanga and Manila, providing for the subsidy of base metals industry. Supposing Senator X has about P50,000 worth of shares in the corporation organized to develop our mining industry, more particularly base metals. And suppose we approve that bill introduced here by the distinguished gentleman from Pampanga and Manila. Would he have to dispose of his shares of stocks in that mining corporation in order to avoid prosecution under this law? Because then the approval of that bill would benefit him financially.

Senator TOLENTINO. If Your Honor will permit me, I admit that there is some imperfection in the phraseology which leads to serious doubts.

Senator TAÑADA. Precisely.

Senator TOLENTINO. The idea as I expressed it in my sponsorship explanation, I think, carries what is intended by the bill. I said that under Section 5 Members of Congress are prohibited during the term of office for which they were elected "to be financially interested, directly or indirectly, in any business or enterprise which shall have been favored or benefited by any law or resolution approved during their tenure of office."

The idea there was to expand a little more what is prohibited under the Constitution.

Senator TAÑADA. I know.

Senator TOLENTINO. The Constitution prohibits only special privileges granted Members of Congress during the term of office of the congressmen or senators. The idea is to expand this not only to enterprises, not only in business . . .

Senator TAÑADA. That is very clear in the bill. My purpose really is that we should have a clear concept of the scope of the provision of this bill before we approve it, because, Your Honor, I don't think that our distinguished President of the Senate would escape prosecution if he continues holding his shares in many corporations in which he has shares.

Now, here is another question. There are many Senators who have shares of stocks in many business corporations. Suppose we reduce the tax in the business of those corporations, do they have to dispose of their shares in order to avoid prosecution under this law? I think our function is to determine first what is the scope of each and every provision of this important bill; otherwise, we may have to tie our hands on definite legitimate business.

Senator TOLENTINO. My idea, if Your Honor please, is not as extensive as the illustration as Your Honor has given.

Senator TAÑADA. But still it is within the language.

Senator TOLENTINO. I admit that. The idea behind this proposal is—suppose I will give a case that will convey the idea more clearly. Whether Your Honor would agree to extend this, that is entirely up to Your Honor and to the Members of this Chamber when we act on this measure.

The idea is this: Suppose we pass here a bill for the benefit particularly of banks, a certain type of banks. It seems to me that that would be covered by the intention, not a business in general but a particular type of bank.

Senator TAÑADA. In that case, a Senator who owns shares of stocks in that bank will have to dispose of those shares.

Senator TOLENTINO. I think so.

Senator TAÑADA. Suppose on the following day we also enact a law concerning educational institutions. I happen to be a holder of shares in an educational institution. Will I have to dispose of those shares in order to escape prosecution?

Senator TOLENTINO. I agree with Your Honor. I know the difficulty we have there.

Senator TAÑADA. Precisely, I am with Your Honor 100 per cent in rooting out the grafters out of this administration, but let us be sure, Your

Honor, that in doing so we do not sacrifice innocent persons with business interests.

Senator TOLENTINO. I agree with Your Honor. I feel that this is one provision that needs a lot of hammering out before we approve this bill. I want to tell Your Honor that when I was preparing this part of the bill, I was only considering the inclusion of the prohibition against . . ., like the director of a bank, that loans given to them, to anyone of them can be approved if it is approved by the majority of the directors excluding the borrowing director; or something like that. But I place this in a more comprehensive provision in the hope that based on a more comprehensive provision, we will have a better notion and find out what policy we will adopt, and I have an open mind on this. I have given the objective and I am open-minded in the manner in which we will phrase this and the extent to which we will impose the prohibition.

Senator TAÑADA. Your Honor, we have in the Constitution a provision which disqualifies a member of the Cabinet from having any control or management in any business that may be affected by the functions of their office, but not interest, only management or control, and I think we should bear that in mind because I suppose the Delegates of the Constitutional Convention must have realized that if the prohibition would be interest in any business that might be affected by the functions of their office, they would have to disqualify precisely the best men that should be in the Cabinet. Now, Your Honor, I do not know what is Your Honor's feelings or the feeling of the floor on this matter. In view of the importance and the urgency of this bill, I would suggest that we fix two or three consecutive days for the discussion of this bill so that after two or three days, if we may need so many days, we could finish this bill and give approval to it after, of course, the necessary amendments. What would be the pleasure of the gentleman now?

Senator TOLENTINO. Well, I am at the disposal of the Chamber and the Floor Leader, I think, can decide how to proceed on this.

Senator TAÑADA. I would like to ask the Floor Leader to give this bill if possible a preference.

Senator PRIMICIAS. Mr. President, before we decide to suspend consideration of this bill, may I ask the indulgence of the distinguished sponsor if he may yield to a few questions?

The PRESIDENT. The gentleman may yield if he so desires.

Senator TOLENTINO. Very gladly.

Senator PRIMICIAS. Like the other gentlemen who have asked the distinguished sponsor to yield on this bill, I am very happy that this bill has been reported out. As a matter of fact, I have tried my best to give it priority in the calendar in order that we may consider this bill, which is a crying need of the country today. I have read the provisions of the bill and I am in accord with the spirit of the bill, but for the moment may I direct Your Honor's attention to section 5 about members of Congress? Many times in the past, several questions had arisen in my mind as to the extent of prohibition to members of Congress taking part in certain business transactions. In one instance here, the gentleman from Quezon has mentioned the Floor Leader of the Senate and of the Lower House with legislative power, and other offices which should be included in this special prohibition who are affected are the President or the Presiding Officers of both Houses. Now, my question would refer to all members of Congress. Suppose a member of Congress has a law office and he is employed to help secure the approval of a barter application. Now, would his act in helping the barter applicant be penalized under any sections of this bill?

Senator TOLENTINO. Well, this is my reaction to that, Your Honor, that if a person is engaged to help procure the approval of a license for barter, that is not actually the work in his law office. That is not really strictly legal work. Anybody, even not a lawyer, can do that, and to my mind if he is employed for the purpose, he is employed because of his public office, not because he is a lawyer.

Senator PRIMICIAS. That would be influence peddling.

Senator TOLENTINO. Yes, then that would fall under a certain provision of this bill.

Senator PRIMICIAS. Under what provision, for example?

Senator TOLENTINO. Under section 2, paragraph (c), I think, as follows: "Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for any other person, from any person for whom the public official has, in any manner or capacity, secured or obtained any government permit or license." I think that would fall under that provision.

Senator PRIMICIAS. Now, suppose a lawyer-member of Congress is asked to help in the approval

of certain concessions for public lands, or oil concessions, would that be also influence peddling under this bill?

Senator TOLENTINO. Yes, it would be, if he is paid.

Senator PRIMICIAS. That is public lands. Now, suppose the lawyer-member of Congress is also employed for a fee, of course, to help in the approval of certain loans by government banks, would that be influence peddling under this bill?

Senator TOLENTINO. A loan? Yes, because if it is a government bank, that falls under the definition of "government" in this bill because that would be an instrumentality of the Government or a corporation of the Government, yes.

Senator PRIMICIAS. But suppose the loan obligation would need work on the legality, like the mortgage, the documents to be signed, the inspection of titles, and other legal matters.

Senator TOLENTINO. Well, that is not actually what Your Honor is asking. It is only an intervention to look over the papers to see to it that they are properly done so that his client would be apprised of the onerous conditions, that would be purely legal work, but if it comes to securing the loan, that is different.

Senator PRIMICIAS. Naturally, that is part of the work of the lawyer-member of Congress, he is retained to help secure the approval of the loan and naturally he will have to examine the papers, the titles, the conditions, the mortgage, etcetera.

Senator TOLENTINO. Well, if Your Honor will limit his work in the helping only, just to examine the papers in his office, to give him the necessary suggestions, to ask that the papers should be put in terms which are not so onerous to his client, that is all right, but the moment he himself intervenes or talks to anybody in the bank, that is intervention, and for that intervention of his, he will fall under this provision.

Senator PRIMICIAS. Suppose he asks intervention only to facilitate by perfecting the papers, the collateral, by preparing a memorandum and all other matters which would induce the bank to give the loan where the lawyer is retained, he is supposed to do all this work, would he be violating the provisions of this bill?

Senator TOLENTINO. Yes, Your honor, but I would like to say that perhaps it may work a little hardship, it may work some hardships on the public official, but, as stated, one of the basis of the provisions of this bill is that we ask for a higher standard of conduct from a public official

than from a private person in the conduct of his personal affairs.

Senator PRIMICIAS. That is why I am asking, Your Honor, in order to make them appear clearly in the record. Now, suppose a lawyer-member of Congress is retained to help a client secure tax exemption under the provisions of Act No. 901 and in order to achieve the purpose of the employer, he must have to prepare all the papers necessary for the application for tax exemption. Would he be guilty of violating the provisions of this bill, of influence peddling under the provisions of this bill?

Senator TOLENTINO. If it involves a permit for tax exemption, yes, I suppose so, Your Honor, under the same section 2, paragraph (c).

Senator PRIMICIAS. Now, suppose a lawyer-member of Congress would intervene, would be retained as lawyer to secure dollar allocations from the Central Bank for a particular client, would he be guilty of influence peddling under this bill?

Senator TOLENTINO. Decidedly he will be, assuming that he received pecuniary consideration.

Senator PRIMICIAS. Of course, because if the lawyer-member is practising law in his law office, the presumption is he must be paid, otherwise he would not be retained. A lawyer never, as a general rule, renders service without pay, except in political questions. Now, these are questions that have come up to my mind, Your Honor, and I am interested in their answers because there are many lawyers who are members of Congress and there are many law offices maintained by these members of Congress who have practiced or who are engaging in practices which are of the nature of the questions I have propounded. And there are many businessmen who are also members of Congress and it is necessary that we should pinpoint responsibility of the members of Congress.

As far as I am concerned, Your Honor, I am in favor of Your Honor's strict interpretation, so that the people may never say that the members of Congress have been influenced one way or the other when they vote on bills affecting their welfare. Well, for the time being, those are my questions, Your Honor.

SUSPENSIÓN DE LA CONSIDERACIÓN
DEL S. NO. 293

Mr. President, may I now ask that further consideration of this bill be suspended until March 11, Wednesday of next week.

The PRESIDENT PRO TEMPORE. If there is no objection the motion is approved. *(There was none.)*

MOCIÓN DE APLAZAMIENTO

Senator PRIMICIAS. Mr. President, I ask that Senate Bills Nos. 93 and 245 in the calendar for today be postponed for March 6; Senate Bill No. 14 for March 10; and Senate Bill No. 544 for March 12.

The PRESIDENT PRO TEMPORE. If there is no objection the motion is approved. *(There was none.)*

DEVOLUCIÓN DEL S. NO. 158 AL CALENDARIO
DE ASUNTOS ORDINARIOS

Senator PRIMICIAS. Mr. President, I ask that Senate Bill No. 158 in the calendar for today be returned to the calendar for ordinary business.

The PRESIDENT PRO TEMPORE. If there is no objection the motion is approved. *(There was none.)*

LEVANTAMIENTO DE LA SESIÓN

Senator PRIMICIAS. Mr. President, I move to adjourn until tomorrow morning at ten o'clock.

The PRESIDENT PRO TEMPORE. If there is no objection, the session is adjourned until tomorrow morning at ten o'clock. *(Silence.)*

Eran las 12:30 p.m.