nila, the chairman of the Committee on Revision of Laws, and author of the bill, Senator Tolentino, be recognized.

The PRESIDENT. The gentleman from Manila is recognized.

SPONSORSHIP SPEECH OF SENATOR TOLENTINO

Senator TOLENTINO. Mr. President, this bill, Senate Bill No. 571, is a clarified version of the anti-graft bill approved during the last regular session of Congress and vetoed by the President. The present measure is identical with the vetoed bill with the additions of some clarifying provisions objected to by the President in his veto message.

I am firmly of the opinion that the objections contained in the veto message disapproving the consolidated bill we passed last May were based on erroneous interpretation of the provisions objected to. I have discussed those objections already in a privileged speech on this floor on June 23, 1960, and I stand by the analysis I then made of the veto message. If the intention of the bill had been properly considered, as shown not only in the bill taken as a whole but also in the records of the proceedings in this Chamber during the debates on said bill, the objections raised in the veto message might not have been made.

However, we are faced by an accomplished fact: that bill has been vetoed. Together with several others in this Chamber, who believe in the objectives and principles of that bill, my first reaction was to insist that the veto be overridden. But again, we have to be realistic. The leaders of the House of Representatives have told me that overriding the Presidential veto has absolutely no chance in that Chamber. And in this Chamber, where we would need sixteen votes to override the veto, we often have just a bare quorum during our deliberations, largely due to the fact that several members of the Senate are abroad. It is extremely doubtful, therefore, whether we could muster the necessary sixteen votes. If we should insist on voting to override in this Chamber, therefore, we would just waste the time of the Senate and still the anti-graft bill would not become law through this method. On the other hand, if we just fold our hands, satisfy ourselves with blaming the President for an erronoeus veto, and with more of *amor propio* than sense we refuse to make changes that could meet his objections, erroneous as they may be, we would never attain the objective of having a good and effective anti-graft legislation, and we become equally responsible to the people in the failure to enact such legislation.

For these reasons, the present bill has been drafted and introduced. Although we may disagree with the Chief Executive on his veto, it will do no harm, it will not detract from the purpose of the bill, and it will not reduce the effectiveness of the measure, if we spell out in the body of the bill itself clarifying provisions which would dispel doubts as to the intent and scope of the sections objected to in the veto message. The important thing is that an anti-graft bill be approved, so long as it will not be watered down. This is in line with the concluding remarks in my privileged speech of June 23, in which I said: "I hope that the President and his legal advisers will take a little trouble and time to restudy the bill and the veto message in the light of this humble analysis. He may then with broadmindedness agree to have the bill repassed in the same form in the ordinary course of legislation. We can certainly make clarifying modifications, but not deletions that could destroy the intent of the bill."

The present bill remains as stringent and as effective as the vetoed bill had been intended by the Congress when we approved it, because this bill reproduces all the provisions of the vetoed measure. There is here no retreat or weakening in the pursuit of the obectives and the principles of the vetoed bill. In my privileged speech of June 23rd, I said clearly: "I cannot accept the right of relatives of the highest government officials to have a field day to enrich themselves by the influence their relations to such officials inherently

carry. I cannot subscribe to a policy of iron-hand treatment for small and petty corrupt officials but a kid-gloved treatment for the President and members of the Cabinet who may enrich themselves by their office. I cannot in conscience adhere to the principle that a President should be given perpetual immunity from prosecution for crimes committed during his incumbency. I cannot agree to an anti-graft bill which is so only in name."

The present bill has been drafted with the same ideas in mind. Not a single section of the vetoed measure has been eliminated or emasculated. This bill is therefore the same as the vetoed anti-graft bill, with some clarifying provisions added to it, but with nothing taken away from it. This is just what the President had indicated in his veto message. He concluded that veto message in these words: "So I urge Congress *to correct* the defective provisions of those joint bills which I pointed out in this message in the hope that a just and fair anti-graft law would be promulgated in this country." Note that the President asked for the correction of provisions, not for their elimination or deletion or suppression.

In making the clarifying provisions in this present measure, I have taken into account not only the veto message of the President but even his reported objections made in press conferences. Most of his objections are met in this bill, because, I have said, those objections were based on mere erroneous interpretations of certain provisions, which are now clarified and thus "corrected" in the present measure. However, it is not possible to follow every suggestion or observations of the President. Whenever a sacrifice of a fundamental principle would be involved, or where the Constitution might be violated, I have refrained from making any change just to suit to the observations of the President. I am sure the President knows we are not a rubber stamp; I am equally sure he would not insist on any change which could be shown to be unreasonable. Like us, he knows that compromise is essential in democratic processes, and particularly so in legislation.

Not knowing how the President would react to this partial meeting of his objections, as soon as I filed the present bill, I immediately sent a copy to Malacañan, with a letter addressed to the President. My letter and the copy of the bill were received by the Legal Adviser of the President. The letter was as follows:

"Dear Mr. President,

"Attached is a copy of S. No. 571, which I have filed, and which I would like to request to be certified for enactment in the current special session.

"This new bill reproduces the provisions of the vetoed measure, with deletions and new provisions so as to clarify the intent and meaning of the sections of the original bill objected to in your veto message.

"I have made no change which will detract from the objectives of the vetoed bill or reduce the effectiveness of the measure. But I have spelled out in the bill itself provisions which I believe will dispel your doubts as to the true scope of the sections objected to in the veto message, and which, I hope, will induce you to certify this new bill for enactment in the current special session.

"With my highest esteem and regards, I am

"Very respectfully,

"(Sgd.) ARTURO M. TOLENTINO"

This letter together with the attached bill was received by Judge Salvador Esguerra at Malacañan only July 6th at about 3:30 in the afternoon. Early the next morning, or July 7th, I had a telephone conversation with Mr. Vicente Logarta, legislative secretary at Malacañan, who mentioned to me that the President was going to certify the anti-graft bill for enactment in this session. I told him plainly that if the President was satisfied with the present bill, S. No. 571, the presidential message should identify this bill by its number, so that the certification can be regarded

as an official indication of the Presidents conformity to the provisions of the present bill. In the afternoon of that same day, the Senate received the message of the President including the present bill, identified by number, S. No. 571, in the agenda and certifying to the urgency of its immediate enactment in the current special session. I feel, therefore, that although some of the observations of the President have not been met or followed in the present bill, by his certification of this particular measure, he considers its clarified provisions as acceptable.

Now, Mr. President, I shall proceed to the details of this bill. I shall not touch anymore upon the provisions which have just been reproduced *in toto* from the vetoed measure, but will limit myself to the sections objected to by the President and to which some clarifying provisions have been added. However, it should be pointed out that the debates on Senate Bill No. 293, the original but ill-fated anti-graft bill, should be considered, by reference, as part of the proceedings on the present measure, for the purpose of explaining the legislative intent with respect to the provisions of the vetoed bill which are reproduced in the present bill. And as to the intent of the sections objected to by the President, and clarified in the present measure, my privileged speech of June 23rd could also be referred to in order to show the scope and intent of said sections.

The changes and additions that have been made in Sections 4, 5 and 6, which are objected to in the veto message, are clearly indicated in the present bill.

Section 4, paragraph (a), provided as follows in the vetoed bill: "It shall be unlawful for any 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, request, or contract with the Government, by reason of any family or close personal relation she may have with any public official."

In this provision, in the present bill, we merely inserted the phrase "in consideration of" in order to emphasize that the receipt of material benefit is precisely because of the family or close personal relations of the accused to a public official.

Section 5 in the vetoed bill provided as follows: "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, or 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: Provided, That this section shall not apply to any person who, prior to the assumption of office of any of the above-officials to whom he is related, has been already dealing with the Government along the same line of business, nor to any transaction, contract or application already exitsing or pending at the time of such assumption of public office."

In the present bill, this section has been kept practically intact; the relatives mentioned are still prohibited from intervening in any business, transaction, contract or application with the Government. But in order to erase doubts as to the scope of the prohibition, these changes have been made: (1) The phrase "in any manner or capacity whatsoever" has been eliminated in order to avoid the impression that the prohibition is sweeping and wtihout any limitation; the phrase "directly or indirectly" is sufficient to indicate the intention of the provision. (2) It is made clear that the prohibition on these relatives does not extend to "any application the approval of which depends upon compliance with requisites provided by law," nor to any act lawfully performed in an official capacity."

Incidentally, the right of the relatives mentioned in this section to practice their profession before agencies of the Government is expressly recognized by a slight change in section 15.

Section 6 in the vetoed bill provided as follows:

"It shall be unlawful hereafter for any member of the Congress, during the term for which he has been elected, to acquire or receive any personal pecuniary interest in any specific business enterprise which will be directly and particularly favored or benefited by any law or resolution authored by him previously approved or adopted by the Congress during the same term.

"The provision of this section shall apply to the President of the Phiilppines who recommends to the Congress the enactment or adoption of such law or resolution, as well as to the members of the Cabinet who recommend to the President the approval of such law."

The second paragraph has been modified in order to make it clear that the President or Cabinet member will become liable under this section only when he receives the prohibited interest in an enterprise benefited by any law recommended by him for enactment. This is the meaning of the original provision, but since it was misunderstood by the President in his veto message, it has been clarified.

These, Mr. President, are the clarifying changes that are made in the present bill in line wtih the veto message. As I indicated earlier, however, there were some observations of the President which I could not see my way clear to accommodate.

One of these was reported in the press as having been made while the President was in Leyte some days ago. It was reported that the President said that the vetoed bill contained a rider which exempts members of Congress from its penal provisions. This is, of course, a gross mistake. Anyone reaidng the bill would see no such rider. Section 3 of the bill, enumerating offenses committed by public officials, refers to "public officers" without exception. Under section 2, it is provided that the term "public officer" includes elective and appointive officials; hence, whether the prohibited act is performed by an executive official or by a member of Congress, he would be liable. There is no discrimination.

A charge wa smade that there is a provision expressly allowing members of Congress exclusively to exercise their profession, and denying this privilege to others. Obviously, section 15, second paragraph, of the vetoed bill was referred to. It provides: "Nothing in this act shall be interpreted to prejudice or prohibit the practice of any profession by any public officer who under the law may legitimately practice his profession during his incumbency." In the first place, this is not a rider. because it is germane to the subject of the bill. It is really a saving clause. It was proposed by the conference committee of the Lower House, and the conference committee of the Senate accepted it, because it does nothing more than to recognize what is allowed by the Constitution and the laws. The congressmen wanted it clear that the prohibitions on public officials in the bill would not be interpreted as to curtail the practice of their professions as allowed by the Constitution. But the provision was made in general terms and applied to all public officers who can practice their profesisons under our laws. It therefore merely confirms what is in the Constitution and in the laws. It creates no special privilege.

If other officials of the Government, like the President and Cabinet members, cannot exercise their profession, it will not be because of this provision of section 15. It will be because of the Constitution and other laws which prohibit them from so doing. But we cannot in this bill give authority to practice a profession to those who under the Constitution and other laws cannot so practice. It is a provision such as that which would be a rider and unconsttiutional. So, I could not incorporate it in the present bill.

Finally, Mr. President, this bill does not mention anything about presidential immunity from criminal prosecution. In his veto message, the President questioned the application of the second paragraph of section 13 to the President. That paragraph provides: "The cessation or separation of a public officer from office shall not be a bar to his prosecution under this Act for an offense committed during his incumbency."

I cannot agree with the propostiion advanced in the veto message that a President who has not been impeached cannot be criminally prosecuted after his term for an offense committed during his incumbency. I am strongly of the view that if a President commits crimes while in office, he can be criminally prosecuted for them the moment he steps down from the Presidency. I believe this view is supported by reasons of official morality, by the requirements of public interest, and by the very Constitution itself. I spoke on this point during my privileged speech of June 23rd, and I will not repeat what I have already said then.

I will now refer to the Constitution itself. Article IX, section 4, of the Constitution provides as follows:

"Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the Government of the Philippines, but the party convicted shall nevertheless be liable and subject to prosecution, trial, and punishment, according to law."

This provision states that after removal by impeachment, "the party convicted shall *nevertheless* be liable and subject to prosecution." The word "nevertheless" means "notwithstanding or in spite of that." This means that in spite of the conviction in impeachment proceedings, the convicted official shall be liable to criminal prosecution. The Constitution here clarified the effect of the "conviction" in impeachment proceedings, in the sense that such conviction should not be taken to constitute jeopardy which would bar a subsequent criminal prosecution. If notwithstanding or in spite of a conviction in impeachment, a deposed president can still be criminally prosecuted, because there would be no double jeopardy, then, with more reason, when there has been no impeachment, there would be absolutely no obstacle to criminal prosecution.

It is for these reasons that in the present bill we have not inserted any provision on presidential immunity. If some President in the future should want to question the constitutionality of section 13 as applied to him, he would be free to do so. In the very remote and extremely doubtful possibility that the Supreme Court should decide that section 13 is unconsttiutional as applied to a President, that would not affect the law as to other officials, because of the separability clause in the bill, or section 16, which provides: "If any provision of this Act or the application of such provision to any person or circumstances is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration."

In the light of these explanations, Mr. President, we feel that there is every reason to hope and to expect that the present bill will ultimately become law. Since the certification of the President is based precisely on this bill as introduced in the Senate, it is my earnest hope that we can avoid making changes during the period of amendments which might furnish new grounds to the Chief Executive to disapprove this bill a second time. We want and we need a good anti-graft law.

I submit, Mr. President, this is it. I thank you.

Mr. President, if there are no questions, I move to go to the period of amendments.

The PRESIDENT. We are now in the period of amendments.

SUSPENSION OF THE CONSIDERATION OF S. NO. 571

Senator PRIMICIAS. Mr. President, in view of the advanced hour, I ask that we postpone further consideration of this bill until tomorrow.

The PRESIDENT. If there is no objection, further consideration of the bill is postponed until tomorrow. (*There was none.*)

DESIGNATION OF ACTING CHAIRMAN OF THE BLUE RIBBON COMMITTEE

Senator PRIMICIAS. In the meantime, Mr. President, I want to make a statement. The Chairman of the Blue Ribbon Committee, the Honorable