

AN ACT TO AMEND CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED ONE HUNDRED AND EIGHTY OTHERWISE KNOWN AS "THE REVISED ELECTION CODE".

The PRESIDENT. To the Committee on Privileges and Election Laws.

The SECRETARY:

S. No. 5 —

By Senator Cuenco

AN ACT TO AMEND CERTAIN SECTIONS OF THE REVISED ELECTION CODE.

The PRESIDENT. To the Committee on Privileges and Election Laws.

The SECRETARY:

S. No. 6 —

By Senator Cuenco

AN ACT TO INCREASE THE SALARIES OF ASSISTANT CITY FISCALS OF CEBU CITY BY FURTHER AMENDING SECTION THIRTY-SEVEN OF COMMONWEALTH ACT NUMBERED FIFTY-EIGHT AS AMENDED.

The PRESIDENT. To the Committee on Provincial and Municipal Governments and Cities.

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S. No. 7 —

By Senator Cuenco

AN ACT AUTHORIZING THE APPROPRIATION OF THE SUM OF TEN MILLION PESOS ANNUALLY FOR A PERIOD OF FIVE YEARS FOR THE PURCHASE OF FOREIGN BREED CATTLE SUITABLE FOR MILK AND BEEF PRODUCTION AND OF FOREIGN BREED HOGS SUITABLE FOR PORK PRODUCTION IN THE PHILIPPINES, AND FOR OTHER PURPOSES.

The PRESIDENT. To the Committee on Agriculture and Natural Resources.

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S. No. 8 —

By Senator Cuenco

AN ACT TO INCREASE THE SALARIES OF ASSISTANT PROVINCIAL FISCALS BY FURTHER AMENDING SECTION SIXTEEN HUNDRED SEVENTY-FOUR OF THE REVISED ADMINISTRATIVE CODE, AS AMENDED BY REPUBLIC ACT NUMBERED SEVENTEEN HUNDRED NINETY-NINE.

The PRESIDENT. To the Committee on Justice.

The SECRETARY:

S. No. 9 —

By Senator Tañada

AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES.

The PRESIDENT. To the Committee on Revision of Laws.

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S. No. 10 —

By Senator Osias

AN ACT TO STABILIZE THE FINANCING OF PUBLIC SCHOOLS IN THE PHILIPPINES AND FOR OTHER PURPOSES.

The PRESIDENT. To the Committee on Education.

The SECRETARY:

S. No. 11 —

By Senator Osias

AN ACT CREATING THE NATIONAL HOUSING AUTHORITY TO FORMULATE AND ADOPT POLICIES AND COORDINATE AND INTEGRATE EFFORTS ON HOUSING MATTERS PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

The PRESIDENT. To the Committee on National Enterprises.

The SECRETARY:

S. No. 12 —

By Senator Cuenco

AN ACT TO PENALIZE "SQUATTING" OR THE TAKING POSSESSION OR OCCUPATION OF ANY LAND AND/OR THE LIVING OR INHABITING IN ANY BUILDING BY A PERSON WITHOUT AN EXPRESS PERMISSION FROM THE OWNER OR LAWFUL POSSESSOR.

The PRESIDENT. To the Committee on Revision of Laws.

The SECRETARY:

S. No. 13 —

By Senator Osias

AN ACT TO REPEAL REPUBLIC ACT NO. 1881 (Re: Obligatory teaching of Spanish).

The PRESIDENT. To the Committee on Education.

The SECRETARY:

S. No. 14 —

By Senators Marcos, Fernández, Padilla, De la Rosa, Rodrigo, Osias, Manglapus, Manahan, Cuenco, Katigbak and Antonino

AN ACT TO REPEAL REPUBLIC ACT NUMBERED TWENTY-SIX HUNDRED AND NINE

Senator PRIMICIAS. Mr. President, the distinguished gentleman from Quezon, Senator Tañada, will make use of the privileged hour to be followed later on by the gentleman from Bulacán, Senator Rodrigo, and I understand also by the gentleman from Laguna, Senator Fernández.

The PRESIDENT PROTEMPORE. The gentleman from Quezon is recognized.

#### PRIVILEGED SPEECH OF SEN. TAÑADA

Senator TAÑADA. Mr. President, lady and distinguished members of this Body: I am not going to speak on Balagtás. The honor and privilege should be given to his provincemate, the distinguished gentleman from Bulacán, Senator Rodrigo, and to his great admirer, the distinguished gentleman from Laguna, Senator Fernández.

I am going to speak, Mr. President, on a bill pending before this Body which has suddenly received attention not only by the members of the Cabinet but also by the President of the Philippines. Yesterday, the metropolitan papers carried the news that the Secretary of Justice, Mr. Diokno, in a speech in Legazpi City, announced that he would ask Congress to pass a law prohibiting wire tapping by any party, government or private, without authority of a competent court.

The news item in part reads:

"Diokno said he does not approve of the practice of letting law agencies tap telephones for purposes of gathering evidence. He believes that a person has as much right to the privacy of his phone conversation as he has in his mail.

"The justice secretary's mention of the proposed law on wire tapping was held significant because of the discovery of wire tapping and recording equipment in the alleged secret hideout of Harry Stonehill in the former Cuban Embassy on Dewey Blvd. last month."

This morning, the metropolitan papers also carried the news regarding a bill on wire tapping. As a matter of fact, the *Manila Chronicle* in streaming headline states:

"MAC WANTS WIRE TAPPING OUTLAWED"

"Hits Practice as Violation of Liberties"

"President Macapagal today told newsmen here he favored the enactment of a statute outlawing tele-

phone wire tapping which he described as a violation of one of the civil liberties.

"The President said he believes in the privacy of communications and endorsed the proposal of Secretary of Justice José W. Diokno to outlaw the practice of government police agencies of tapping telephone wire."

Mr. President, in the editorial of today's issue of the *Manila Times* the following is stated. The editorial is entitled "SECRETARY DIOKNO MOVES TO CURB WIRE-TAPPERS":

"The privacy of communication, according to the Constitution, '... shall be inviolable except upon lawful order of the court or when public safety and order require otherwise.'

"Yet this constitutional provision, one of the guarantees of the citizen against unlawful invasion of his privacy, has been violated innumerable times. Is it possible that the public has gotten so used to it that it has come to accept such violation as normal?

"Citizens hear about postal inspectors opening mail at the post office but think almost nothing of it. They presume the inspectors are within their rights because 'public safety and order' are involved. But how often is this tampering really justified? It is impossible to give an exact answer, but the presumption is that in most cases the invoking of the public interest is not justified by the results. Only upon lawful order of the court as the Constitution enjoins, should invasion of the privacy of communications be allowed when the nation is at war or when an emergency does not exist.

"If the improper opening of private communications is wrong, more so is the interception of telephone conversations. Wire-tapping is known to be indulged in by some government police and intelligence agencies acting on the assumption that public safety is involved. But, again, how many times has this assumption turned out to be unjustified? As in the case of the mails, this is a matter which requires determination by a competent court.

"So common indeed has wire-tapping become in this age of electronic devices that it is now within the capability of private persons to use this method to gather 'business intelligence' for their own ends.

"Responsible public officials today have shown too little concern over the encroachments of the privacy of citizens by wire-tappers. All the more to be commended, therefore, is the proposal of Justice Secretary Jose W. Diokno for the enactment of a law to prohibit wire-tapping by private persons and restrict its use by the government to cases duly authorized by a competent court.

"Such a law, needless to say, must make the mere possession of wire-tapping equipment punishable as a criminal act.

"Secretary Diokno's proposal is of such timely importance that it deserves to get on the agenda of Congress in this session. Our legislators, who have been prone to put partisan considerations above constructive legislation, have nevertheless always been receptive to proposals for safeguarding the Bill of Rights. There is hardly any doubt they would act favorably on Secretary Diokno's proposal when it gets to Congress."

Mr. President, this editorial, the speech of the Secretary of Justice in Legazpi and the remarks made yesterday by the President of the Philippines indicate not only the importance of a law outlawing wire-tapping but also the sad fact that these gentlemen do not know that there is a bill filed in this Body as early as January 5, 1962 which is now known as Senate Bill No. 9. As a matter of fact, Mr. President, after this bill was filed on January 5, 1962, the following interesting comment was made by Carmen Guerrero Nakpil in her column "*My Humble Opinion*" in the *Manila Chronicle* Issue of January 12, 1962. This column reads:

"**TAÑADA VS. EAVESDROPPERS** — When we were children, the least-liked person on the playground or in the schoolroom was the eavesdropper. He or she was, in our estimation, just about the lowest form of life — worse than the prig or the braggart. All three were outside the pale of our friendship, but for the one who sneaked up behind us and hid in the bushes or just beyond the window while we gossiped giddily away, and then carried his misheard and ill-gotten tale we reserved the worst of our fury.

"None of us had ever heard of the Constitution or of the Bill of Rights but privacy of communication is an instinct even seven — and nine-year olds can feel very strongly about. And when we surprised the culprit at his despicable pastime, we descended upon him or her like veritable harpies.

"Now, thanks to a bill filed in the Senate by Senator Lorenzo M. Tañada, eavesdropping — especially of the electronic type — will be punishable with a jail term of from six months to four years unless the eavesdropper can show a court order or a permission from the office of the Solicitor-General. The bill refers to any violation of any 'communication or spoken word' by overhearing, intercepting, recording through a dictaphone, dictagraph, detectaphone, walkie-talkie, tape-recorder, wire or cable-tapping and other device or arrangement."

"No one who believes that 'the acid test of successful democratic government is the degree of effective liberty it makes available to the individual' can have anything but praise for the latest Tañada bill. It is not only the inquisitorial methods of a too powerful and impatient authority that it seeks to

curb, but also the nasty, grubbing violations of individual privacy which in the past have been used to black-mail and 'frame-up' public men and private citizens.

"If any intelligence operative wants to acquire evidence on persons suspected of rebellion, he will get his court permission easily. But if anybody just wants to have a tape of, say, a married congressman making a date with a dancing-girl and to exchange it for his vote on a controversial measure — this one will have to think of going to jail first."

Mr. President, as I said, the bill outlawing wire-tapping was filed on January 5, 1962 and now it has received universal endorsement. I say "universal" because it is endorsed by the President of the Philippines, a Liberal; it is endorsed by the Secretary of Justice, a Nacionalista; and it is endorsed by the press. I believe therefore, and I hope that my bill will soon be reported out. In justice to the Chairman of the Committee to which this bill was referred — I refer to Senator Manglapus — I would like to say that about two weeks ago he informed me that he would soon hold public hearings on this bill considering its importance. I hope that the distinguished Senator from Manila and Ilocos Sur will soon hold that public hearing, because unquestionably this is a need which we can no longer ignore. Thank you.

Senator MANGLAPUS. Mr. President.

The PRESIDENT PROTEMPORE. The gentleman from Manila and Ilocos Sur is recognized.

#### STATEMENT OF SEN. MANGLAPUS

Senator MANGLAPUS. Mr. President, I just want to state here that although at the beginning I felt there was need for public hearing on this bill, but in view of the crystallization of public opinion and in view of the obvious unanimity of opinion on the bill, and with the consent of the members of the Committee, the Committee may report out this bill without need of any public hearing.

Senator TAÑADA. Thank you.

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

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

Senator TAÑADA. Very gladly to the distinguished gentleman from Laguna.

Senator FERNÁNDEZ. There had been talks, nay, information to the effect that there has been tapping of telephone wires not only these days but even last year. I will not state anymore the purpose or purposes for which this tapping of telephones and telephone wires have been made. But will not Your Honor agree with me that if we investigate the Philippine Long Distance Telephone Co. for inefficiency in service — I am glad the Public Service Commission denied their petition to increase rates — that we should also investigate the Philippine Long Distance Telephone Co. to find out if they had wittingly or unwittingly allowed the tapping of telephones and telephone wires?

Senator TAÑADA. That would be a good inquiry with, however, this understanding: that the reporting of the bill to the floor should not be made to depend on the result of that inquiry or investigation.

Senator FERNÁNDEZ. We have in the Bill of Rights of our Constitution the following provision:

"The privacy of communication and correspondence shall be inviolable except upon lawful order of the court or when public safety and order require otherwise."

May we know from Your Honor, who is an authority on constitutional law, what bearing this provision of the Bill of Rights in our Constitution would have on the bill that Your Honor has presented?

Senator TAÑADA. That is one source of the idea behind the bill outlawing wire tapping, because there is no question that the privacy of communication which is guaranteed by the Constitution would be rendered illusory if we should permit evidence gathered through wire tapping to be presented in court or to be used in any other manner.

Senator FERNÁNDEZ. So that any telephone or telephone wire tapping nowadays or recording secretly of conversations through tape recorders would be in violation of this provision of the Bill of Rights.

Senator TAÑADA. Yes, that is in violation of the Bill of Rights; but this bill places a sanction on that violation because the Constitution does not contain any sanction for violation of

privacy of communication and correspondence. Now, this bill seeks to provide that sanction, that penalty, for any persons who, without any court order, or without the consent of the parties would tape record any telephone conversation or tap telephone wires.

Senator FERNÁNDEZ. We have this provision Article 32 of the New Civil Code:

"Any public officer or employee or any private individual who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties or another person shall be liable to the latter:

xxx

"11. The privacy of communication and correspondence;"

May we know from Your Honor whether this provision of the New Civil Code is incorporated?

Senator TAÑADA. That is complementary to the bill because that provides for civil damages.

Senator FERNÁNDEZ. Your Honor's bill seeks to penalize wire tapping.

Senator TAÑADA. That is right.

Senator FERNÁNDEZ. May we know whether there is any provision in that bill on the competency or incompetency and, therefore, inadmissibility of evidence secured through wire tapping?

Senator TAÑADA. Yes, there is.

Senator FERNÁNDEZ. That bill would make the evidence incompetent.

Senator TAÑADA. Incompetent.

Senator FERNÁNDEZ. Before I proceed further, these are just preliminary questions on the matter. The time for us to discuss the merits of this bill is when it is reported; but it just occurred to me to ask these questions because this has attracted public attention and as of now our government agencies should really be guided accordingly even if this bill is not yet approved, because of this constitutional provision against the violation of the privacy of communication and correspondence in the Bill of Rights.

Let us suppose that our government police agencies received reliable information about a plot against the Government and they don't have

the time to go to court or to the Solicitor General or fiscal as stated in Your Honor's bill. Could not these government police agencies take the necessary step even to the extent of wire tapping the conversation wherein this plot to overthrow the Government is being discussed?

Senator TAÑADA. Under my bill, Your Honor, that can not be done. They can tap telephone wires only after obtaining the necessary court authority.

Senator FERNÁNDEZ. But how would that authority granted by the court under Your Honor's bill affect or be affected by this provision of the Bill of Rights in our Constitution to the effect that the privacy of communication and correspondence shall be inviolable except upon lawful order of the court or when public safety and order require otherwise?

Senator TAÑADA. Precisely, this bill provides that a government employee or agent cannot tap telephone wires unless he has obtained a court authority.

Senator FERNÁNDEZ. But in the Bill of Rights, there is this exception: "when public safety and order require otherwise." Suppose in the honest opinion of the police agencies public safety and order require that they tap the conversation through the telephone of people trying to plot the overthrow of the Government. Would that violate this bill that Your Honor has presented.

Senator TAÑADA. Under my bill that cannot be done because court authority must first be secured.

Senator FERNÁNDEZ. Well, as I said, we will go more into this when this bill is discussed on the floor; and I would like to place on record that if credit is to be given where credit is due as it should be given, I for one would like to state that more than to the Secretary of Justice credit on this matter should be given to Your Honor, the distinguished gentleman from Quezon, Senator Lorenzo M. Tañada, because long before the Secretary of Justice has thought of this idea Your Honor has already filed this bill.

Thank you.

Senator TAÑADA. Thank you very much.

Senator PADILLA. Mr. President, will the dis-

tinguished gentleman from Quezon yield to few questions for clarification?

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

Senator TAÑADA. Gladly, to the gentleman from Manila and Pangasinán.

Senator PADILLA. I wish to congratulate you, Your Honor, not only for having filed this Senate Bill No. 9 as early as January 5, 1962, although our attention has not been properly invited for its discussion because it has not yet been reported by the Committee, and also for your privileged speech this morning inviting attention to the importance of protecting constitutional civil rights, particularly the privacy of communication.

Now, Your Honor, without advancing the contents of your bill, I gather that the primary intention is to put a sanction, a penalty for violations of this constitutional right. Is that right?

Senator TAÑADA. Yes, and to render evidence—

Senator PADILLA. Secondly, to make it clear that evidence secured through this illegal means will have no probative or admissible value.

Senator TAÑADA. Correct.

Senator PADILLA. In line with the pertinent provision of the Bill of Rights, under Article III, Section 1, paragraph 5, it seems that there are three exceptions to this right of privacy of communication and correspondence, because the provision of the Constitution recognizes: "except upon lawful order of the court or when public safety and order require otherwise." Apparently, the privacy of communication may have to yield if the circumstances would justify the issuance of a court order, or even in the absence of a court order if public safety would require it or if public order would also require it. Now, does the bill, Your Honor, regulate therefore or seek to regulate or at least clarify the proper exercise of these exceptions?

Senator TAÑADA. I must confess, Your Honor, that my bill in its present form only permits wire tapping upon lawful order of the court, and I would like to explain it. In passing, I would like to say that I will gladly accept amendments that Your Honor may introduce to perfect the bill. The reason for my providing only that wire tapping be allowed only upon lawful order of the

court is, precisely, because of what the Editor of the *Manila Times* said in today's issue that very often postal authorities open our mails on the pretext that national security requires it. Who will judge that national security is involved, a simple clerk or a mere chief clerk? I, therefore, thought it wise to leave the determination to more responsible officials — that is to the courts. I did not only include correspondence because the problem to me is only wire tapping. We may in a separate bill provide safe guards for correspondence.

Senator PADILLA. Obviously, Your Honor, an employee even if he were holding a responsible position in the Bureau of Posts would have no authority or any right to tamper on the privacy or secrecy of letters.

Senator TAÑADA. Yes.

Senator PADILLA. Then, in the same way, any employee or any technician of our Bureau of Telecommunications or of the telephone company.

Now, but the words "public safety," apparently, involve cases that might involve the security of the State and that would refer to treason, espionage, and so forth. And the word "order" in paragraph 5, which is different from "lawful order of the court," apparently refers to "public order", those crimes that are punishable under the Penal Code from rebellion to sedition. In cases of public safety or public order, in other words, for violations against the security of the State or against public order, would not Your Honor believe that if we require even in those cases that there be an express court order, that it might delimit or abridge the exceptions provided for in the Constitution? Because the phrase uses the words "upon lawful order of the court or when public safety and order require otherwise."

Senator TAÑADA. Well, it might be interpreted as prohibiting wire tapping on those two last exceptions. My point is to leave the determination of "public safety and order" to the courts. It is dangerous to leave these to our police agencies.

Senator PADILLA. Perhaps, this bill could provide for some specific conditions to safeguard the right of the privacy of communication with-

out sacrificing the higher interest of the State, whenever public safety or public order may require, because we are all interested in the inviolability of civil liberties. But many times civil rights, specially if abused must have to yield to the superior right of the State to protect its own existence and the order of the community.

Senator TAÑADA. There is no question about that, Your Honor. I believe that when the distinguished Chairman of the Committee to which my bill was referred convenes the Committee to a meeting to report the bill, we will take into consideration your observations. I find your observations sound and laudable.

Senator PADILLA. Now, for another point before I close. The phrase "lawful order of the court," does the bill, Your Honor, provide for the exercise of this exception? In other words, how may the order to be lawful be properly secured from the court? Because, for example, under Article III, paragraph 3 of Section 1 of the Bill of Rights regarding "unreasonable searches and seizures," the Constitution was careful in providing additional safeguards that the court should not issue such warrants except upon the examination by the court of the complainant and his witness, which was a reversal of the old practice of merely filing affidavits and the court then issues the warrant. Under the constitutional provision therefore which makes it stricter, it is necessary for the judge to make personal investigation and examination of the complainant and his witness. Would Your Honor apply a similar requirement in securing an order that would mar or abridge this right to secrecy of correspondence or privacy of communication?

Senator TAÑADA. Yes, we will do that.

Senator PADILLA. Thank you very much.

Senator TAÑADA. Thank you.

Senator PRIMICIAS. Mr. President, will the distinguished gentleman yield to a few questions?

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

Senator TAÑADA. Gladly to the distinguished Floor Leader of the Senate.

Senator PRIMICIAS. I must assume that the provision of the Constitution, Article III, Section

1, paragraph 5, is a statement of a civil right, but that the Congress may enact implementing legislation, is it not, Mr. Senator?

Senator TAÑADA. That is right.

Senator PRIMICIAS. Now, according to this provision of the Constitution, there is no entity or body authorized to determine when public safety and order require the violation of privacy of communication and correspondence. There is no entity that may determine that?

Senator TAÑADA. Yes, Your Honor. The provision of the Constitution does not contain such a reference.

Senator PRIMICIAS. So that we may, I mean the Congress may, enact legislation to implement that provision.

Senator TAÑADA. Yes, that is true.

Senator PRIMICIAS. Now, Your Honor, in order to implement this provision and to fill up this gap, may we not under a bill provide that it is the court that must determine whether public safety and order require the violation of this privacy?

Senator TAÑADA. That is true. I so provide that in connection with wire tapping, but I have not included the last two exceptions. However, in the amendment to this bill before it is reported, we may consider that.

Senator PRIMICIAS. So that in Your Honor's opinion, in order to determine whether public safety and order require the violation of privacy, we may provide in a bill or in an amendment to Your Honor's bill that courts of competent jurisdiction shall first determine whether this condition exists or not.

Senator TAÑADA. That is true, Your Honor.

Senator PRIMICIAS. So that in all cases, the determination of the court would be a condition precedent to the violation of privacy.

Senator TAÑADA. That is right.

Senator PRIMICIAS. Thank you very much.

Senator TAÑADA. Thank you, Your Honor.

Senator OSÍAS. Mr. President, will the gentleman kindly yield?

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

Senator TAÑADA. Gladly.

Senator OSÍAS. Modesty aside, I was a humble member of the Constitutional Convention, and being a victim of the inexcusable violation of the privacy of communications that I issued at that time, I had something to do with the inclusion of this under the Bill of Rights which now is a provision of the supreme law of the land, reading as follows: "The privacy of communication and correspondence shall be inviolable except upon lawful order of the court or when public safety and order require otherwise." Am I correct in viewing the bill of the gentleman that the privacy of conversation over the wires or telephones should also be declared inviolable?

Senator TAÑADA. Yes. That is part of the right to privacy of communication.

Senator OSÍAS. Therefore, it will be a sort of corollary of the Bill of Rights.

Senator TAÑADA. Yes, Your Honor.

Senator OSÍAS. Does the bill impose penalties for the violation of privacy?

Senator TAÑADA. Yes, we provide penalties for any violation of this privacy.

Senator OSÍAS. When and if this bill is enacted into law, would the violation of the privacy of communication and correspondence as provided in the Constitution be also punishable by law?

Senator TAÑADA. Well, the purpose precisely of this bill is to provide a penal sanction for the violation of the right guaranteed by the Constitution.

Senator OSÍAS. I should like to state that I commend the gentleman for the presentation of this bill, as I also commend President Macapagal and Secretary Diokno for approving the principle involved, and I should like to anticipate my conformity and probable support of the bill of the gentleman.

Senator TAÑADA. Thank you very much.

Senator PRIMICIAS. Mr. President, the distinguished gentleman from Bulacán, Senator Rodrigo, will use part of the privilege hour.

The PRESIDENT PROTEMPORE. The gentleman from Bulacán is recognized.

April 10, 1962

The PRESIDENT. To the Committee on Revision of Laws.

The SECRETARY:

Resolution No. 37 of the Municipal Council of Buhí, Camarines Sur, opposing the approval of House Bill No. 649 which grants franchise to the ICELEC, INC., inasmuch as there is already an existing franchise granted to said municipality to operate electric light system.

The PRESIDENT. To the Committee on Banks, Corporations and Franchises.

The SECRETARY:

Resolution No. 49 of the Municipal Council of Libmanan, Camarines Sur, proposing to Congress the passage of a bill providing for full-time compensation for members of municipal councils in lieu of per diems and that the duties and responsibilities of municipal councilors and vice-mayors be so re-defined such that they can effectuate concrete extension of government service to the rural areas.

The PRESIDENT. To the Committee on Provincial and Municipal Governments and Cities.

The SECRETARY:

Special Resolution No. 2 of the Patients' Municipal Council of the Eversley Childs Sanitarium, Cebú City, seeking the passage of a bill authorizing the Office of the Charity Sweeptakes to hold a special draw, the proceeds of which be set aside to help the victims of Hansen's disease of the Philippines.

The PRESIDENT. To the Committee on Revision of Laws.

The SECRETARY:

Resolution No. 3 of the Barrio Council of Batbat, Guinobatan, Albay, urging Congress to amend Section 15 of Republic Act No. 2370, known as "The Barrio Charter".

The PRESIDENT. To the Committee on Provincial and Municipal Governments and Cities.

The SECRETARY:

Resolution of the teachers and employees of the Pilar Rural High School, Abra, recommending the amendment of the Spanish Law so as to exempt students of vocational schools from taking Spanish.

The PRESIDENT. To the Committee on Election.

The SECRETARY:

BILLS ON FIRST READING

S. No. 213

By Senators Manahan, Roy, Magsaysay, Osias, Lim, Manglapus, Ledesma, Antonino, Primicias, Padilla,

López, De la Rosa, Tolentino, Balao, Púyat, Cuenco, Marcos and Katigbak.

AN ACT AUTHORIZING THE IMPORTATION OF AGRICULTURAL COMMODITIES UNDER TITLE FOUR OF THE UNITED STATES PUBLIC LAW NUMBERED FOUR HUNDRED AND EIGHTY, IN ORDER TO GENERATE FUNDS TO FINANCE INTENSIVE AND DIVERSIFIED FARM PRODUCTION, AND AUTHORIZING AND DIRECTING THE AGRICULTURAL CREDIT AND COOPERATIVE FINANCING ADMINISTRATION TO IMPLEMENT RELEVANT AGREEMENTS ENTERED INTO ON THE SUBJECT AND TO ADMINISTER THE PROCEEDS THEREOF AND FOR OTHER PURPOSES.

The PRESIDENT. To the Committee on Agriculture and Natural Resources.

The SECRETARY:

S. No. 214—

By Senator Tolentino

AN ACT TO PROVIDE FOR COST OF LIVING AND AND CHRISTMAS ALLOWANCES FOR GOVERNMENT EMPLOYEES.

The PRESIDENT. To the Committee on Finance and Economy.

The SECRETARY:

S. No. 215—

By Senator Tolentino

AN ACT TO AMEND CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED ONE HUNDRED EIGHTY, KNOWN AS THE REVISED ELECTION CODE. (re registration of voters)

The PRESIDENT. To the Committee on Privileges and Election Laws.

The SECRETARY:

REPORTS OF COMMITTEES  
(Com. Rept. No. 25)

Mr. President:

The Committee on Revision of Laws to which was referred Senate Bill No. 9, introduced by Senator Tañada, entitled:

AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES.

has considered the same and has the honor to report it back to the Senate with the following recommendation:

THAT IT BE APPROVED WITH THE FOLLOWING AMENDMENTS:



1. — On page 1, from line 17 to line 19, omit the following: "OR BY WRITTEN PERMISSION OF THE SOLICITOR GENERAL, OR CITY FISCAL, OR PROVINCIAL FISCAL,"

2. On page 2, between lines 11 and 12, insert the following new section:

"SEC. 4. ANY COMMUNICATION OR SPOKEN WORD, OR THE EXISTENCE, CONTENTS, SUBSTANCE, PURPORT, EFFECT, OR MEANING OF THE SAME OR ANY PART THEREOF, OR ANY INFORMATION THEREIN CONTAINED OBTAINED OR SECURED BY ANY PERSON IN VIOLATION OF THE THREE PRECEDING SECTIONS OF THIS ACT SHALL NOT BE ADMISSIBLE IN EVIDENCE IN ANY JUDICIAL, QUASI-JUDICIAL, OR ADMINISTRATIVE HEARING OR INVESTIGATION."

3. On line 12 of the same page, change "SEC. 4" to "SEC. 5"; and on line 14, change "SEC. 5" to "SEC. 6".

Respectfully submitted:

(SGD.) RAUL S. MANGLAPUS  
Chairman  
Committee on Revision of Laws

The Honorable  
The President of the Senate  
Manila

The PRESIDENT. To the Calendar of Ordinary Business.

The SECRETARY:

(Com. Rept. No. 26)

Mr. President:

The Committee on Provincial & Municipal Govts. & Cities to which was referred H. No. 236, introduced by Cong. Raquiza, Cases, Villareal, Castañeda and Tabiana entitled:

AN ACT WITHDRAWING THE AUTHORITY DELEGATED TO THE PRESIDENT TO CREATE MUNICIPALITIES AND MUNICIPAL DISTRICTS, DEFINE OR FIX THEIR BOUNDARIES, AND CHANGE THE SEAT OF GOVERNMENT WITHIN ANY SUCH POLITICAL SUBDIVISION, AND FOR OTHER PURPOSES, AMENDING CERTAIN SECTIONS OF THE REVISED ADMINISTRATIVE CODE,

has considered the same and has the honor to report it back to the Senate with the following recommendation:  
THAT IT BE APPROVED WITHOUT AMENDMENT.

Respectfully submitted:

(SGD.) M. JESUS CUENCO  
Chairman  
Committee on Provincial & Municipal Governments & Cities

The Honorable  
The President of the Senate  
Manila

The PRESIDENT. To the Calendar of Ordinary Business.

The SECRETARY:

(Com. Rept. No. 27)

Mr. President:

The Committee on health to which was referred Senate Bill No. 117-5th C.R.P., introduced by Senator Tolentino, entitled:

AN ACT TO PENALIZE THE MANUFACTURE, SALE AND DISTRIBUTION OF COUNTERFEIT DRUGS AND MEDICINES.

has considered the same and has the honor to report it back to the Senate with the following recommendation:

THAT IT BE APPROVED WITH THE FOLLOWING AMENDMENT:

1.—On page 1, line 2, between the words "SMALL" and "SELL", delete the word "KNOWINGLY".

Respectfully submitted:

(SGD.) ROGELIO DE LA ROSA  
Chairman  
Committee on Health

The Honorable  
The President of the Senate  
Manila

The PRESIDENT. To the Calendar of Ordinary Business.

Senator PRIMICIAS. Mr. President, the distinguished gentleman from Bulacán, Senator Rodrigo, last Friday reserved his right to make use of the privileged hour to speak on a matter of personal privilege. He had to postpone it for today so that we could act on a very important bill. He will be followed by the distinguished gentleman from Quezon, Senator Tañada, and by other Senators who would want to speak later on. I ask that the Senator from Bulacán be recognized.

The PRESIDENT. The gentleman from Bulacán is recognized.

PRIVILEGED SPEECH OF SENATOR RODRIGO

Senator RODRIGO. Mr. President, lady and gentlemen of the Senate: I rise on a question of personal privilege.

My having been chosen Acting Chairman of the Commission on Appointments is now officially

tially a good man, a moral public officer and a leader whom our generation can well emulate.

And I am happy, Mr. President, that Benito Soliven has left to his descendants his traits of leadership, his ability and his honesty, and as long as we have men and children like the late Assemblyman, war hero and outstanding public servant, Benito Soliven, our people can still hope to survive the difficulties that we now encounter and try and prosper as a nation with moral character adhering to the provisions of law and maintaining the high standards of morality in public service. Thank you very much.

CONSIDERATION OF SENATE BILL NO. 9

(Continuation)

Senator TOLENTINO. Mr. President, I move that we now resume consideration of Senate Bill No. 9 being sponsored by Senator Tañada. I think we are now in the period of amendments.

The PRESIDENT PRO TEMPORE. Resumption of the consideration of Senate Bill No. 9 is now in order. The Secretary will please read the title of the bill.

The SECRETARY:

AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES.

Senator TAÑADA. Mr. President, we are now in the period of amendments and the Committee will now entertain the amendments that have been announced by the members of this Body.

Senator MANGLAPUS. Mr. President.

The PRESIDENT PRO TEMPORE. What is the pleasure of the gentleman from Rizal and Ilocos Sur?

Senator MANGLAPUS. Mr. President, I do not know whether this is in keeping strictly with the prescribed procedure, but as co-sponsor of this bill I would like to call attention to the fact that there are two committee amendments, those that are found in the committee report attached to the bill, and if there are no prior amendments, I would like to submit the first amendment on page 1, from line 17 to line 19.

Senator PADILLA. Prior amendment, Mr. President.

Senator MANGLAPUS. Mr. President, this being a committee amendment, I think this has priority.

On page 1, from line 17 to line 19, omit the following words: "OR BY WRITTEN PERMISS-

SION OF THE SOLICITOR GENERAL, OR CITY FISCAL, OR PROVINCIAL FISCAL."

The PRESIDENT PRO TEMPORE. What does the sponsor say?

Senator TAÑADA. Mr. President, this is a committee amendment to which the author has no objection. I move therefore that the same be submitted for approval of this Body.

The PRESIDENT PRO TEMPORE. Is there any objection? (Silence.) The Chair hears none. The amendment is approved.

Senator MANGLAPUS. The second committee amendment, Mr. President, is on page 2. Between lines 11 and 12 insert a new section which should be the new Section 4 to read as follows:

"SEC. 4. ANY COMMUNICATION OR SPOKEN WORD, OR THE EXISTENCE, CONTENTS, SUBSTANCE, PURPORT, EFFECT, OR MEANING OF THE SAME OR ANY PART THEREOF, OR ANY INFORMATION THEREIN CONTAINED OBTAINED OR SECURED BY ANY PERSON IN VIOLATION OF THE THREE PRECEDING SECTIONS OF THIS ACT SHALL NOT BE ADMISSIBLE IN EVIDENCE IN ANY JUDICIAL, QUASI-JUDICIAL, OR ADMINISTRATIVE HEARING OR INVESTIGATION."

Senator TAÑADA. Will the Chairman of the Committee allow an amendment to the amendment?

Senator MANGLAPUS. If the gentleman will please state his amendment.

Senator TAÑADA. Mr. President, the distinguished Senator from Iloilo if I still remember has suggested that the committee amendment be amended in such a manner as to include not only judicial, quasi-judicial or administrative hearing or investigation but also legislative hearings or investigations.

Senator MANGLAPUS. That would be a worthy amendment to the amendment, Mr. President.

The PRESIDENT PRO TEMPORE. Is there any objection? (Silence.) The Chair hears none. The amendment, as amended, is approved.

Senator MANGLAPUS. The last committee amendment is on line 12, also on page 2. It is a consequence of the second amendment, a change in the numbering of sections. Change Section 4 to Section 5, and on line 14, change Section 5 to Section 6.

The PRESIDENT PRO TEMPORE. Is there any objection? (Silence.) The Chair hears none. The amendment is approved.

Senator PADILLA. Mr. President.

The PRESIDENT PRO TEMPORE. The gentleman from Manila and Pangasinan is recognized.

Senator PADILLA. Mr. President, I would like to propose an amendment to Section 1 by transferring on line 3 between "spoken word," and "to secretly overhear" the clause appearing on lines 7 and 8 of said section, so that it will read:

"SECTION 1. It shall be unlawful for any person, not being authorized by all the parties to any communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, to secretly overhear, intercept, or record such communication or spoken word by using a device commonly known as a dictaphone or dictagraph or detectaphone or walkie-talkie or tape-recorder, or however otherwise described."

My purpose, Your Honor, is, as the main objective of the bill as stated in the title is to prohibit and penalize wire tapping and other related violations of privacy of communication, the suggestion is to transfer that clause on tapping on line 3 instead of appearing on lines 7 and 8 of Section 1.

Senator TAÑADA. No objection, Mr. President. I propose that the amendment be submitted to the Body.

The PRESIDENT PRO TEMPORE. Is there any objection? (*Silence.*) The Chair hears none. The amendment is approved.

Senator TAÑADA. Mr. President, if there is no more amendment to Section 1, I would propose the following amendment submitted by the distinguished gentleman from Batangas, Senator Diokno.

Senator RODRIGO. Mr. President.

The PRESIDENT PRO TEMPORE. What is the pleasure of the gentleman from Bulacan?

Senator RODRIGO. Mr. President, I propose the following amendment to Section 1, line 8: After the word "arrangement" and the period (.) add the following: "IT SHALL ALSO BE UNLAWFUL FOR ANY PERSON, BE HE A PARTICIPANT OR NOT IN THE ACT OR ACTS PENALIZED BY LAW IN THE NEXT PRECEDING SENTENCE TO KNOWINGLY POSSESS ANY TAPE RECORD, WIRE RECORD, DISC RECORD, OR ANY OTHER SUCH RECORDS, OR COPIES THEREOF, OF ANY COMMUNICATION OR SPOKEN WORD SECURED EITHER BEFORE OR AFTER THE EFFECTIVE DATE OF THIS ACT IN THE MANNER PROHIBITED BY THIS LAW; OR TO REPLAY SAME FOR ANY OTHER PERSON OR PERSONS; OR TO COMMUNICATE THE CONTENTS THEREOF, EITH-

ER VERBALLY OR IN WRITING, OR TO FURNISH TRANSCRIPTIONS THEREOF, WHETHER COMPLETE OR PARTIAL, TO ANY OTHER PERSON."

Senator TAÑADA. Mr. President, this amendment was discussed by the author with me and I have no objection. However, for the information of the members of the Senate, I suggest that the author of the amendment explain the implication of such amendment.

Senator RODRIGO. The meaning of this amendment, Mr. President, is this. Under the present bill wire tapping will be penalized. Of course, this being a penal statute, this will have a prospective effect. So, under the bill without my amendment, only those who tap wire or use any other device prohibited in this measure after this bill becomes a law will come under the law. Now, we know that at present wire tapping is being done. We know that at present there are tape records secured by means of wire tapping. We cannot penalize under this law wire tapping now before this law takes effect. However, we can penalize under this law the use or the possession of wire recording or tapped record after this law takes effect. Because what we will be penalizing in my amendment is not the act of wire tapping done before the enactment of this law but the act of using the tape recording or possessing the wire recording after this law takes effect. So, this amendment of mine will not really make this law retroactive; it will also be prospective. It will penalize an act done after the enactment of this law, and I repeat the act that will be penalized is the use of tape recording already done or taken before this law takes effect.

Another effect of my amendment under this bill is, without my amendment, only those who actually participate in wire tapping will be penalized. But it is possible that three people tap the wire and take a tape recording of the conversation and later on somebody, who did not actually participate in the wire tapping, gets possession of the tape recording and then plays or allows his instrumentality in playing this tape recording for other people to hear. Under my amendment, this person will also be penalized under this bill. This is the meaning of my amendment, Mr. President.

Senator TAÑADA. Mr. President, while the distinguished gentleman from Bulacan was explaining the meaning of the implication of this amendment, it occurred to me to ask whether this bill

apply to wire tapping made by the NBI with the consent of the person whose communication is being recorded.

Senator RODRIGO. This will not apply because this bill allows even such a tape recording. Even without my amendment the bill allows such a tape recording. So, this will only apply to tape recording made in violation of the first sentence of Section 1.

Senator TANADA. As member of the Blue Ribbon Committee, I came to know that a certain recording of the statements made by Mr. Spielman was made. And while that tape recorded statement has not been found until now, my question is, suppose it is found, may it be used in evidence?

Senator RODRIGO. Yes, because that was recorded with the knowledge of the person who spoke. Under this bill, even with my amendment, even if such a tape recording were to be done after this bill becomes a law, still that would not be penalized because the act penalized here is tape recording without the knowledge or consent of the people who are parties to the conversation.

Senator TANADA. Thank you. As stated, Mr. President, I have no objection to the amendment because I know its purpose and objective. So, I suggest that the matter be submitted to the Senate for approval.

Senator TOLENTINO. Mr. President, may I pass on this question for clarification to the sponsor of the amendment?

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

Senator RODRIGO. Gladly.

Senator TOLENTINO. I was reminded while I was listening to the explanation on the proposed amendment of this newspaper item appearing in the daily press of some reported bribery in the Municipal Board of Manila involving a lease of a lot where one of the councilors has been talking about a tape recording. Now, that tape recording, if it exists, must have happened without the knowledge of the parties. With your amendment, Your Honor, could this tape recording still be used in evidence if this amendment is approved?

Senator RODRIGO. No longer. It cannot be used any more because if this tape recording were done after the bill takes effect, that would be penalized under this bill. And so, it having been taken before this bill took effect, well, the act of taking

is not penalized under this bill. However, under my amendment, if this is used after this bill becomes a law, that will be penalized.

Senator TOLENTINO. I see some kind of a conflict there, Your Honor, because if this tape recording is going to be submitted in court as evidence, then under the Rules of Evidence it is admissible evidence as has been established in some cases, and even if the communication or the information has not been properly acquired, in cases of search warrants, this is still admissible in evidence. If we will follow that principle, then this is admissible in evidence. But if it is presented in evidence as admissible evidence that will be a lawful act. Yet, under this bill, it is penalized. Is the presentation in evidence a use that you seek to penalize, Your Honor? Or, you may use it only outside of legal processes.

Senator RODRIGO. First of all, under this bill, as amended by the Committee, a tape recording taken against the provision of this bill cannot be admissible evidence. That was the amendment of the Committee. That was accepted by the sponsor and approved by the Senate.

Senator TOLENTINO. Well, I really cannot see whether that would be fair because, when the tape recording was taken, as you said, the act itself of taking tape recording is not penalized by law and if this could be used as evidence in court, why should we prohibit its use now?

I would agree that its use for other purposes may be prohibited, but when it is going to be used as evidence, especially in the case when there is practically no evidence except that, it may be availed of because the party to a case of bribery, for instance, the person giving the bribe would never testify that he has given a bribe, because he himself becomes criminally liable. And that may be the only evidence.

Senator RODRIGO. Your Honor, I believe this amendment will give harmony to this bill. As I mentioned, the Committee amendment was already approved. The Committee amendment provides that tape recording taken against the provision of Section 1 of this Act will not be admissible in evidence. Of course, this applies to tape recording without my amendment. This is taken after the Act becomes a law. However, I just want to extend this to acts on tape recording taken under the same circumstance but before this bill becomes a law. This will make it consistent,

Senator TOLENTINO. Well, thank you, Your Honor. I just have my own doubts about this matter.

Senator RODRIGO. Thank you very much.

The PRESIDENT PRO TEMPORE. Is there any objection? (*Silence.*) The Chair hears none. The amendment is approved.

Senator ZIGA. Mr. President.

The PRESIDENT PRO TEMPORE. The gentle lady from Albay.

Senator ZIGA. Mr. President, before I present my amendment, may I inquire from the sponsor if it is the intention of this bill as drafted to just impose the penalty of *prisión correccional* in its minimum and medium periods? Because the punishment ranges from six months to four years. The entire period covered by *prisión correccional* is from six months to six years. Now, is it the intention of the sponsor to impose the minimum and medium periods?

Senator TAÑADA. Not at all. It just provides for that punishment, leaving the entire matter to the discretion of the court.

Senator ZIGA. So in that case, Mr. President, I would like to amend that it should be from six months to six years.

Senator TAÑADA. To six years.

Senator ZIGA. Yes, Your Honor.

Senator TAÑADA. In other words, you would want to delete in line 14. . . .

Senator ZIGA. In line 14, delete the word "four" and, in lieu thereof, put "SIX."

Senator TAÑADA. I have no objection, Your Honor.

Senator ZIGA. May I inquire also if there is already an amendment to the effect that if the offender is a public officer, temporary absolute disqualification will be imposed.

Senator TAÑADA. The distinguished gentleman from Batangas, Senator Diokno, has an amendment to that effect.

Senator ZIGA. I see. Well, after that, Mr. President, I would like to add: "and if the offender is an alien, he shall be subject to deportation."

Senator TAÑADA. I will have no objection to that amendment, provided we finish first the amendment of the gentleman from Batangas, Senator Diokno, so that it will be more orderly.

Senator ZIGA. All right. I will wait.

Senator PADILLA. Mr. President.

The PRESIDENT PRO TEMPORE. The gentleman from Pangasinan and Manila.

Senator PADILLA. May I propose an amendment to Section 2.

Senator TAÑADA. Let us confine ourselves first to Section 1.

Senator PADILLA. I thought we are on Section 2 because the amendment proposed by the lady Senator from Albay was on Section 2.

Senator MANGLAPUS. Mr. President.

The PRESIDENT PRO TEMPORE. The gentleman from Ilocos Sur and Manila.

Senator MANGLAPUS. Mr. President, just for a point of clarification. I am sorry I was not on the floor when the amendment of the gentleman from Bulacan was considered. Does the amendment cover tape recordings that have already been submitted in evidence in court, where the case is already finished in court?

Senator TAÑADA. No, it is not covered.

Senator MANGLAPUS. It is not covered.

Senator TAÑADA. It is not covered.

Senator MANGLAPUS. Thank you very much.

Senator TAÑADA. Mr. President, I would suggest that the distinguished gentleman from Batangas present his amendments, now that he is here. I was about to present them.

The PRESIDENT PRO TEMPORE. The gentleman from Batangas has the floor.

Senator DIOKNO. Mr. President, I would like to propose the amendment that on page 1, line 2, between the words "any" and "communication," add the word "PRIVATE." So that the bill therefore would read in that part, "being authorized by all the parties to any private communication."

The PRESIDENT PRO TEMPORE. Is there any objection? (*Silence.*) The Chair hears none. The is approved.

Senator DIOKNO. On page 1, line 7, eliminate the word "otherwise," so that the words will appear, "by using a device commonly known as a dictaphone or dictograph or detectaphone or walkie-talkie or tape recorder, or however described." The purpose of this is only to make it clearer.

The PRESIDENT PRO TEMPORE. Is there any objection? (*Silence.*) The Chair hears none. The amendment is approved.

Senator DIOKNO. On page 1, line 8, after the amendment presented by the distinguished gentleman from Bulacan, add a colon (:) and the following clause: "PROVIDED, HOWEVER, THAT NOTHING CONTAINED IN THIS ACT SHALL BE CONSTRUED TO PREVENT OR FORBID ANY PERSON WHO IS A PARTY TO A CONVERSATION OR COMMUNICATION HAVING BEEN CALLED BY ANOTHER FROM RECORDING THE SAME OR CAUSING THE SAME TO BE RECORDED BY MEANS OF THE AFORESAID DEVICES OR OTHER MEANS WHENEVER THE SAME CONTAINS A PROPOSAL OR CONSPIRACY TO COMMIT A CRIME OR EVIDENCE THAT A CRIME HAS BEEN OR IS BEING OR IS ABOUT TO BE COMMITTED." The purpose of this amendment, Mr. President, is to exempt from the prohibition the recording of a conversation by a party to a conversation who has been called by somebody else or when the conversation refers to a crime or a conspiracy to commit a crime. Specifically, we hope by this to enable persons who are being the victims of anonymous telephone calls or blackmail or extortion or attempted bribery to be able to record the conversation and have corroborative evidence of the conversation.

The PRESIDENT PRO TEMPORE. What is the opinion of the sponsor?

Senator TAÑADA. No objection to the amendment, Mr. President.

The PRESIDENT PRO TEMPORE. Is there any objection?

Senator RODRIGO. Mr. President.

The PRESIDENT PRO TEMPORE. The gentleman from Bulacan.

Senator RODRIGO. Mr. President, will the sponsor of the amendment yield to a few questions for clarification?

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

Senator DIOKNO. Certainly, Your Honor.

Senator RODRIGO. Your Honor provides an exception to conversations or communications whenever the same contains a proposal or conspiracy to commit a crime or evidence of a crime. Does this exception apply also to the taping or the use of a device?

Senator DIOKNO. Oh yes, of course. If the conversation is itself recorded, then by virtue of this

exception, its admissibility in evidence is unquestionable.

Senator RODRIGO. Well, I can see the point where there should be an exception when the conversation involves the commission of a crime or proposed commission of a crime. The problem is this: before the conversation, we do not know what the conversation is going to be. So it is possible that somebody might say: "Well, this conversation might contain, might involve, something regarding the commission of a crime." So, he records it. But then it turns out that the conversation had nothing to do with the commission of a crime. What happens then?

Senator DIOKNO. Well, if it pleases the court, he would be technically guilty.

Senator RODRIGO. How is that?

Senator DIOKNO. He would be technically guilty.

Senator RODRIGO. Technically guilty.

Senator DIOKNO. Yes, Your Honor.

Senator RODRIGO. What do you mean by technically guilty? Can he be prosecuted under this law and penalized?

Senator DIOKNO. He could be. Under the amendment, he could be.

Senator RODRIGO. He will be technically guilty.

Senator DIOKNO. Yes, Your Honor. But the reason for that, distinguished senator, is that normally you would not tape record a conversation unless you have first had an inkling that it would contain evidence of a crime. Normally, for instance, when you are the victim of blackmail or of an anonymous call, the first time you get an anonymous call, it never enters your mind to record it. It is only when you expect the second anonymous call. Or if, for example, you are the victim of a kidnapping. You receive instructions: "You will receive a telephone call at this time." You know that the telephone call will deal with the matter of the kidnaping. Or somebody makes an appointment with you, let us say, Your Honor, to offer a bribe or to demand extortion. Usually, you have a prior inkling of this. And in all cases where this has been allowed by the courts — this has been allowed by the courts of the United States, Mr. Senator — in all cases that this has been allowed, there had been prior conversations or negotiations that would lead to a reasonable ground to believe that such evidence of a crime or proposal of conspiracy would actually take place.

Senator RODRIGO. Now, for purposes of record, may I ask another question on the basis of the example that you have given, Your Honor. Supposing somebody calls me up by phone, trying to extort money from me. Well, I was caught by surprise. I was not able to tape record it. But I know that he is going to call back tomorrow, and so I prepare the device. He calls me back the next day and does not mention this; he talks to me about something else, aside from the commission of a crime. Am I technically guilty under this law?

Senator DIOKNO. No, Your Honor, because under those conditions the provision of law covering that penalty is "willfully." That means you must have had a criminal intent; and in this particular case, your good faith is unquestionable, since there is already a prior circumstance that would give you reasonable ground to believe that the conversation would contain a proposal, conspiracy, or evidence of a crime.

Senator RODRIGO. Well, thank you very much. I just wanted to clarify this on the record.

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

Senator TAÑADA. Section 2.

Senator PADILLA. Mr. President, my proposed amendment under Section 2 is to eliminate on lines 10 and 11, the following words: "agree or conspire with any person to do, or", so that the section would read:

"SEC. 2. Any person who willfully or knowingly does or who shall aid, permit, or cause to be done any of the acts declared to be unlawful in the preceding section shall, upon conviction thereof, be punished by imprisonment for not less than six months or more than four years."

The proposed elimination of the words: "agree or conspire with any person to do, or" is under the principle of criminal law that a mere agreement without any overt act is not punishable.

Senator TAÑADA. In lieu of the phrase, "agree or conspire," what is Your Honor proposing?

Senator PADILLA. I propose the elimination of that phrase, only that, so that we will retain the whole section except the words "agree or conspire."

Senator TAÑADA. No objection, Your Honor.

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

Senator ZIGA. Mr. President, after the amendment is submitted by the gentleman from Batangas, I propose the following amendment: "and if the offender is an alien, he shall be subject to deportation proceedings."

Senator TAÑADA. May I request the distinguished lady from Albay to hold that amendment in abeyance because there is an important amendment presented by the distinguished gentleman from Batangas. Senator Diokno, which is as follows: after the words here in line 14, page 1, eliminate the period and insert the following:

"and with the accessory penalty of perpetual absolute disqualification from public office, if the offender be a public official at the time of the commission of the offense."

Mr. President, I would like to submit for the consideration of the Body that amendment which is a very good amendment.

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

Senator ZIGA. Now, Mr. President, I would like to submit the amendment after the word "offense" of the amendment recently approved. After the word "offense", delete the period and insert a comma in lieu thereof and insert the following: "and if the offender is an alien, he shall be subject to deportation proceedings."

Senator TAÑADA. No objection, Your Honor.

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

Senator DIOKNO. Mr. President, with the permission of the distinguished sponsor, I have an anterior amendment on page 1, line 12, after the word "section", add the words: "or violates the provisions of the following section or of any Order issued thereunder, or aids, permits, agrees to, conspires or causes such violation." The purposes of the violation under section 2 which is only a violation of section 1, are penalized under section 3 which provides for permissible tape recording. Any violation of this section is not penalized under the law in order to make the law consistent, so that it will penalize any violation of section 1 or Section 3.

Senator TAÑADA. No objection, Your Honor.

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

Senator RODRIGO. Mr. President, to be consistent with the amendment of the gentleman from Pangasinan and Manila, Senator Padilla, to delete "agree or conspire."

Senator DIOKNO. I have no objection to the amendment to the amendment.

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

Senator TANADA. Mr. President, there are amendments on page 1, line 16, section 3, presented by the distinguished gentleman from Batangas. I would request him to present it now while he is here.

Senator DIOKNO. On page 1, line 16, section 3, eliminate the word "person" and substitute the words "peace officers."

Senator TANADA. No objection, Your Honor.

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

Senator DIOKNO. On page 2, line 4, eliminate the words "and robbery," so that this permissible tape recording will be made only in cases of offenses involving national security. And of course, coupled with that, Your Honor, insert the word "kidnapping" instead of "robbery." And after the word "Code," insert "and violation of Commonwealth Act No. 616 punishing espionage and other offenses against national security, as amended."

Senator TANADA. No objection, Your Honor.

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

Senator TANADA. Mr. President, just for the record, this amendment which included the crime of kidnapping was the idea of the distinguished gentleman from Capiz, Senator Roxas.

Now, the last amendment, if there are no other amendments to be presented, is on page 2. Delete the proviso which begins on line 5 and ends at line 11, and in lieu thereof, insert the following:

"Provided, however, that such written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and a showing: (1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed or is being committed or is about to be committed: *PROVIDED, HOWEVER, THAT IN CASES INVOLVING THE OFFENSES OF REBELLION, CONSPIRACY AND PROPOSAL TO COMMIT REBELLION, INCITING TO RE-*

*BELLION, SEDITION, CONSPIRACY TO COMMIT SEDITION, AND INCITING TO SEDITION, SUCH AUTHORITY SHALL BE GRANTED ONLY UPON PRIOR PROOF THAT A REBELLION OR ACTS OF SEDITION, AS THE CASE MAY BE, HAVE ACTUALLY BEEN OR ARE BEING COMMITTED;* (2) that there are reasonable grounds to believe that evidence will be obtained essential to the conviction of any person for, or to the solution of, or to the prevention of, any of such crimes; and (3) that there are no other means readily available for obtaining such evidence.

The order granted or issued shall specify: (1) the identity of the person or persons whose communications, conversations, discussions, or spoken words are to be overheard, intercepted, or recorded and, in the case of telegraphic or telephonic communications, the telegraph line or the telephone number involved and [their] ITS location; (2) the identity of the person or persons authorized to overhear, intercept, or record the communications, conversations, discussions, or spoken words; (3) the offense or offenses committed or ought to be prevented; and (4) the period of the authorization. The authorization shall be effective for the period specified in the order which shall not exceed sixty (60) days from the date of issuance of the order, unless extended or renewed by the Court upon being satisfied that such extension or renewal is in the public interest.

"ALL RECORDINGS MADE UNDER COURT AUTHORIZATION SHALL, WITHIN FORTY-EIGHT HOURS AFTER THE EXPIRATION OF THE PERIOD FIXED IN THE ORDER, BE DEPOSITED WITH THE COURT IN A SEALED ENVELOPE OR SEALED PACKAGE, AND SHALL BE ACCOMPANIED BY AN AFFIDAVIT OF THE PERSON OR PERSONS GRANTED SUCH AUTHORITY STATING THE NUMBER OF RECORDINGS MADE, THE DATES AND TIMES COVERED BY EACH RECORDING, THE NUMBER OF TAPES, DISCS, OR RECORDS INCLUDED IN THE DEPOSIT, AND CERTIFYING THAT NO DUPLICATES OR COPIES OF THE WHOLE OR ANY PART THEREOF HAVE BEEN MADE, OR IF MADE, THAT ALL SUCH DUPLICATES OR COPIES ARE INCLUDED IN THE ENVELOPE OR PACKAGE SO DEPOSITED WITH THE COURT. THE ENVELOPE OR PACKAGE SO DEPOSITED SHALL NOT BE OPENED, OR THE RECORDINGS REPLAYED, OR USED IN EVIDENCE, OR THEIR CONTENTS REVEALED, EXCEPT UPON ORDER OF THE COURT, WHICH SHALL NOT BE GRANTED EXCEPT UPON MOTION, WITH DUE NOTICE AND OPPORTUNITY TO BE HEARD TO THE PERSON OR PERSONS WHOSE CONVERSATION OR COMMUNICATIONS HAVE BEEN RECORDED.

"The court referred to in this section shall be understood to mean the Court of First Instance within whose territorial jurisdiction the acts for which authority is applied for are to be executed."

Mr. President, this proposed amendment is a combination of amendments submitted to me by Senator Diokno and the gentleman from Iloilo, Senator Ganzon.



Senator PADILLA. Mr. President.

The PRESIDENT PRO TEMPORE. Gentleman from Manila and Pangasinan.

Senator PADILLA. May I just suggest the substitution of the words "PERSON OR PERSONS" to "PEACE OFFICERS" in the written proposal of the gentleman from Batangas, which appears on page 9, line 5.

The PRESIDENT PRO TEMPORE. What does the sponsor say?

Senator TANADA. I have no objection. That was Your Honor's idea which we adopted in amending Section 3.

Senator PADILLA. That is right, Your Honor, when I made reference to a better word than "person" and limit it to "peace officer or a member of the law-enforcing agency."

The PRESIDENT PRO TEMPORE. Is there any objection? (*Silence.*) The Chair hears none. The amendment is approved.

Senator TOLENTINO. Mr. President, I have a nagging doubt about that amendment which was introduced by the distinguished gentleman from Bulacan regarding the use of tape recordings already acquired before this bill takes effect as a law; and in order to give more time to consider that, I would like to ask for reconsideration of our action on that amendment.

The PRESIDENT PRO TEMPORE. Is there any objection to the motion for reconsideration?

Senator PADILLA. Mr. President.

The PRESIDENT PRO TEMPORE. Gentleman from Pangasinan.

Senator PADILLA. The remarks of the Majority Floor Leader has reference to a proposal made by the gentleman from Bulacan. Presently, I do not see him for the moment in the session hall. Could we...

Senator TOLENTINO. The idea, Mr. President, is merely to reconsider our action on that so that we can reopen it. (*After a pause.*) For the information of the gentleman from Bulacan, I was asking, Mr. President, that we reconsider our action approving the amendment that he introduced regarding the use of tape recordings that had already been made before the approval of this Act. The idea is simply to reopen the matter so that we can discuss it a little more.

Senator RODRIGO. I have no objection, Mr. President.

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

#### SUSPENSION OF THE SESSION

Senator TOLENTINO. Mr. President, I ask that we suspend the session for a few minutes.

The PRESIDENT PRO TEMPORE. If there is no objection, the session is suspended for a few minutes. (*There was none.*)

(*It was then 12:05 p.m.*)

#### RESUMPTION OF THE SESSION

(*It was 12:14 p.m.*)

The PRESIDENT PRO TEMPORE. The session is resumed. Mr. Floor Leader.

Senator TOLENTINO. Mr. President, during the suspension of the session, we discussed and proposed some amendments to the amendment of the distinguished gentleman from Bulacan. I think the gentleman from Bulacan is now ready to read his amendment as amended.

The PRESIDENT PRO TEMPORE. The gentleman from Bulacan is recognized.

Senator RODRIGO. Mr. President, I submit the following amendment. On page 1, Section 1, after the first sentence, line 8, after the period, add the following:

"IT SHALL ALSO BE UNLAWFUL FOR ANY PERSON BE HE A PARTICIPANT OR NOT IN THE ACT OR ACTS PENALIZED IN THE NEXT PRECEDING SENTENCE TO KNOWINGLY POSSESS ANY TAPE RECORD, WIRE RECORD, DISC RECORD OR ANY OTHER SUCH RECORD OR COPIES THEREOF OF ANY COMMUNICATION OR SPOKEN WORD SECURED EITHER BEFORE OR AFTER THE EFFECTIVE DATE OF THIS ACT IN THE MANNER PROHIBITED BY THIS LAW, OR TO REPLAY THE SAME FOR ANY OTHER PERSON OR PERSONS, OR TO COMMUNICATE THE CONTENTS THEREOF EITHER VERBALLY OR IN WRITING, OR TO FURNISH TRANSCRIPTIONS THEREOF WHETHER COMPLETE OR PARTIAL TO ANY OTHER PERSON; PROVIDED THAT THE USE OF SUCH RECORD OR ANY COPIES THEREOF AS EVIDENCE IN ANY CIVIL OR CRIMINAL INVESTIGATION OR TRIAL SHALL NOT BE COVERED BY THIS PROHIBITION."

Senator FERNANDEZ. Mr. President.

The PRESIDENT PRO TEMPORE. Gentleman from Laguna.

Senator FERNANDEZ. May I ask a few questions to the distinguished gentleman from Bulacan?

Senator RODRIGO. Gladly.

Senator FERNANDEZ. Before asking Your Honor questions on this matter, I would like to state that I did not have a chance to take part in the drafting of that amendment and, therefore, would highly appreciate enlightenment on this amendment. I would like to state also by way of preliminary remarks the following fundamental rule in the law of evidence, that as a general rule, there is no vested right in the rule of evidence.

Now, with these two preliminary remarks in mind and even at the risk of being repetitious because I would like that the fundamental underlying philosophy behind this bill be our guide all the time, there should be uniformity in the applicability of our Rules of Evidence on this matter. In other words, what is bad now should be considered as bad now and should cover matters that had been allowed before but which we considered to be bad now. May I know from Your Honor what is the import of this amendment, particularly the proviso—what is being excepted there?

Senator RODRIGO. Well, the proviso of this amendment of mine calls or refers to those recordings already existing. Now, at present this is not penalized by law. Not even the taking of these recordings is penalized by law now. The use of it is not penalized by law. Now, after this law takes effect and with my amendment, the act of having taken those recordings will not be penalized under my amendment because that was done before the law took effect. If these recordings were used before the law takes effect, their use will not be penalized because the law has no retroactive effect. However, if after the law takes effect, those recordings are still used by the one who possesses them, that will be penalized under this amendment, except those included in the proviso which reads: PROVIDED THAT THE USE OF SUCH RECORD OR ANY COPY THEREOF AS EVIDENCE IN ANY CIVIL OR CRIMINAL INVESTIGATION OR TRIAL SHALL NOT BE COVERED BY THIS PROHIBITION. This proviso was drafted after a consultation with other senators. The reason is that there are certain cases pending in court the evidence in which consists of these tape recordings. These tape recordings were taken by the ones who took them before the law took effect and, therefore, when they took these tape recordings there was nothing illegal in what they did, and so knowing that there was nothing illegal in what they did and knowing, as Your Honor said, that this can be admitted in evidence, they took these tape

recording to present them as evidence, and it is possible that since they have already these tape recordings, they did not bother any more to look for other evidence. The other evidence must have been lost already, so the idea of this proviso is unfair for those people not to allow them to use this evidence even after this bill becomes a law. That is the reason.

Senator FERNANDEZ. Mr. President, I hope the members of the Senate will even pardon my inquisitiveness on this particular matter, because we want as much as possible to pass a bill that would approximate perfection. Now, with respect to your first observation, distinguished gentleman from Bulacan, if the only purpose of this amendment is to see to it that those who had previously tape-recorded conversations should not be penalized for that act or for keeping now the tape recording, in my humble opinion that amendment would be superfluous, because there cannot be any ex post facto law. If the act was legal when it was done, then no law can be passed that would make it illegal afterwards and make him criminally responsible.

Senator RODRIGO. That is correct, Your Honor, but under this amendment of mine the act that will be penalized is not the act committed before the bill becomes a law. It will be the act committed after this bill becomes a law. In other words it is the use of those tape recordings after this bill becomes a law that would be penalized, but the use of those tape recordings before this bill is enacted into law will not be penalized.

Senator FERNANDEZ. I am a little bit disturbed by your second observation, and that is if this tape recording now exists in the hands of the police agencies, for example, taken before the approval of this bill, Your Honor said that we should allow the use of this tape recording because the police agencies might not have other evidence except this tape recording. Did I get Your Honor correctly?

Senator RODRIGO. Under this proviso, yes. But the general rule, according to my amendment, is that these tape records cannot be used after this bill becomes a law. The use of these recordings after this bill becomes a law is not only illegal but also penalized by this law. However, the exception is contained in the proviso: "Provided, That the use of such records or any copies thereof as evidence in any civil, criminal investigation or trial shall not be covered by this prohibition."

I would like to call Your Honor's attention to the effect that this applies not only to police agen-

cies. This can apply even to private persons. If they have tape recordings that are going to be used in the trial of a case, well this is an exception to the prohibition.

Senator FERNANDEZ. As I already stated if it is immoral—bad—to allow the use of a tape recording now, why are we going to provide for the exception? In other words a police agency tape records a conversation after the approval of this bill. It is already a law. That would be illegal and it would be also illegal for him to use that in evidence. As a matter of fact I think there is a provision there already which makes inadmissible this tape record taken after the conversion of this bill into a law. Now, if that is so, if it would be bad and therefore illegal to take a tape recording of conversation after this bill becomes a law and to use that tape recording in evidence, why should there be an exception to tape recording that has already been previously taken? If it is bad now, why should tape recording previously taken be not considered also as bad and therefore inadmissible?

Senator RODRIGO. I am going to be candid with Your Honor. I agree with Your Honor. As a matter of fact this proviso was not in my original amendment. It was only after a reconsideration of the approval of my original amendment that this proviso was inserted, not upon my suggestion but as a compromise.

Senator TOLENTINO. Mr. President, with the permission of the gentlemen on the floor may I add a few statements to the explanation already given by the distinguished gentleman from Bulacan.

The PRESIDENT PRO TEMPORE. With the permission of the two gentlemen on the floor, the Acting Majority Floor Leader may proceed.

Senator TOLENTINO. Mr. President, the point raised is, if we are prohibiting the use now, why are we going to allow this yet, this exception? As already well explained by the distinguished gentleman from Bulacan there may be pending cases where this evidence was precisely taken to be used in those cases, and we should not bar litigants or parties to the case from the use of this evidence which they have acquired. But we may say this also: This bill provides for a machinery or a procedure rather by which tape recordings can be taken by securing a court order. Now, that machinery is not provided now. Therefore, if a person now takes a tape recording for use in evidence, even if he wanted to get a court order since there is no machinery provided by existing law, he could not

get a court order, and we should presume that if there had been such a machinery provided by existing law, he could have resorted to such procedure and obtain a court order to get this tape recording. Since that is not obtainable because there is no such procedure, we should not bar him from later on using that for purposes of evidence. Besides, Mr. President, the only exception from the prohibition is when you use this recording for evidence and when you use this evidence you have the safeguard that the courts will apply the Rules of Evidence as to the materiality and relevancy of evidence to be used in court. That is the only exception. In other words the party who took this tape recording when the law has not yet come into effect cannot use this, let us say, for political campaign and play this tape recording in political meetings. He cannot do that. The exception is when it comes to court proceedings and then the Rules of Evidence will be used by the court to determine whether this evidence will be allowed or not. These are the reasons that underlie this exception.

Senator FERNANDEZ. Mr. President, with the permission of the distinguished gentleman from Bulacan, may I address a few questions to the distinguished Majority Floor Leader?

Senator RODRIGO. I yield the floor to the gentleman from Manila.

The PRESIDENT PRO TEMPORE. The gentleman from Manila may yield to the gentleman from Laguna if he so desires.

Senator TOLENTINO. It will be a pleasure to answer, Mr. President.

Senator FERNANDEZ. I understood the general point which Your Honor has brought out. If that were the only point, then perhaps the proviso, in my humble opinion, would be very good. But I am afraid your statement does not cover all the contingencies which may arise under this proviso.

Before asking the question, Your Honor, may I say something by way of a preliminary remarks. I am going to advance a proposition so that Your Honor can follow me better. If we insert a provision which would make admissible tape recording taken before the approval of this Act for cases where and when the court may allow the tape recording under the present law, such as when public security is involved, the proviso would be all right. But let us suppose that the tape recording is a tape recording of the conversation not affecting public security, conversation, say, between husband and wife and afterwards the husband is prosecuted

The wife cannot testify but a third person overhearing can testify. And this person, a member of the police agency, hearing the criminal nature of the conversation, tape recorded it. And there is now a tape record on this.

My impression from the statement made by the distinguished gentleman from Quezon was that, if this tape recording were to be made now that would be illegal.

Senator TOLENTINO. Yes, if it is made after the approval of this bill.

Senator FERNANDEZ. Why are we going to make illegal the use of such tape recording? My impression is that that kind of tape recording is covered by the proviso. Am I correct in my impression that that is covered by the proviso?

Senator TOLENTINO. Yes, Your Honor, if the tape recording is made after the approval of the bill, then it will not be legal under the exception.

Senator FERNANDEZ. I am referring to tape recording made before the approval of the bill.

Senator TOLENTINO. If tape recording before the approval of the bill is not legal, then the exception allows that it be used legally in court. The use would be a mere consequence of the legal act of tape recording before this bill becomes a law.

Senator FERNANDEZ. There is where my serious doubt is, because if it is bad under this bill to allow the tape recording of such a conversation and, therefore, illegal to allow its use under this bill, if this is the underlying philosophy behind this bill, why are we going to create that exception for tapes that have already been taken when there is a rule of evidence that can be adopted to affect even pending cases.

Senator TOLENTINO. Your Honor is speaking from the purely, I would call it, technical point of view. But you have to consider the question of fairness and human element there, that when this tape recording was taken the people did not foresee that this will be a prohibited act after a law of this nature has been passed. Now, why should we deprive them of a right that they had when they took the tape recording? Of course, I agree with you that there is no vested right in the Rules of Evidence, but I am speaking not on the technical principles of the Rules of Evidence but on a matter of fairness and in justice to these people who when they knew that there was no law prohibiting may have taken this tape recording at the time the taking of such tape recording.

Senator FERNANDEZ. I would like to disagree, Your Honor, insofar as your statement that there would be no fairness is concerned, because, Mr. President, it is elementary that the Rules of Evidence are and must be decided in all cases with a few exceptions, such as the *quantum* of evidence required in criminal or in civil cases, and that the general rule of evidence be the same in all cases because the Rules of Evidence are means provided for by law for the purpose of asserting the truth. That is the fundamental, cardinal and philosophical rule underlying all rules of evidence.

Senator TOLENTINO. But the Rules of Evidence have their respective exceptions, Your Honor.

Senator FERNANDEZ. May I finish first. Because, as I said, I disagree of course, Your Honor is entitled to your own opinion. I disagree with your statement that there would be unfairness if we apply this rule of evidence even to pending cases. I say there would be no unfairness, because a rule of evidence is a means provided by law to ascertain the truth legally.

Senator TOLENTINO. Precisely.

Senator FERNANDEZ. Now if this rule of evidence is good now under this bill, why should it not be good with respect to pending cases.

Senator TOLENTINO. Well, the rule of evidence now, precisely, is, I believe, that if a piece of evidence is acquired, it could be admitted. What we are objecting to now practically, by the general provision of this amendment, is to change the rule of evidence. I am trying to preserve only by this proviso the admissibility of this evidence. In other rules of evidence they can be admitted, because the general provision of the amendment introduced by the distinguished gentleman from Bulacan prohibits all use, for any purpose, even if the tape recording was made before the passage of this law, but we are only excepting the use as evidence in court. So, all other uses remain prohibited. Only the use as evidence in court will not be covered by the prohibition. That is all that we seek to obtain, in other words, to maintain the present rule of evidence.

Senator FERNANDEZ. For my part, Mr. President, I would be willing to go only as far as exceptions in cases where the court now could properly authorize the tape recording of any conversation, such as where and when it affects the security of the state; otherwise I cannot see any valid reason why we are going to except from the applicability of this rule of evidence other cases.

Senator TOLENTINO. Well, Your Honor, that is the view of the distinguished gentleman from Laguna, but I think that my main premise, considering the fact that when the tape recording was taken it was not prohibited yet, there was no machinery by which a court order can be obtained to get such a tape recording and allow such recording in evidence. However, as I stated, this proviso does not mean that the evidence is admissible. It is still subject to the other rules of evidence, regarding materiality of the evidence, the relevancy of the evidence, or any other pertinent rule of evidence.

Senator FERNANDEZ. May I say something more on the matter as premise to further questions. We are all familiar with the doctrine laid down by the Supreme Court in the Moncado case. Briefly, evidence illegally obtained without search warrant are admissible in evidence. Suppose we pass a law making it inadmissible for us to be consistent with the guarantee that the Constitution gives against unlawful searches and seizures. Now, if we do that, would there be any unfairness if we apply that law even to pending cases? Here is a case where the evidence has been obtained without a search warrant illegally. The case is still pending in court. Can we not pass a law making it inadmissible, that kind of evidence, even in pending cases?

Senator TOLENTINO. We can, Your Honor. But there is this difference. In the example you have given you started already from the premise that the taking of evidence was illegal, without search warrant. In this case, the taking of tape recording would be still legal. It is not illegal. There is that big difference.

Senator FERNANDEZ. As far as the admissibility of evidence is concerned, I think there is parallel or analogy to the example that I have mentioned, as far as the present amendment is concerned.

Senator TOLENTINO. If we consider only the legislative power to provide whether the evidence will be admissible or inadmissible, there will be no difference. But I am talking of the fairness or of the equity of it.

Senator FERNANDEZ. Mr. President, I would like to state that perhaps we should be given a little more time to consider this. I regret to say that I was away from the session hall, attending to some people in my office, when I heard that we were already discussing this amendment. And I came back rushing because, as Your Honor will remember, I interpellated extensively the distinguished gentleman from Quezon on this bill. I know some-

thing about evidence, and I thought that perhaps should be able to contribute the little I know on the matter of evidence to some perfecting amendment. I hope these remarks of mine will not be considered as delaying the approval.

Senator TOLENTINO. Will not the gentleman consider suspending . . .

Senator FERNANDEZ. Just as the distinguished gentleman from Quezon, we consider him as an authority on constitutional law, and I grant that but I know something about evidence, although I would not want anybody to consider me as an authority on evidence.

Senator TOLENTINO. Well, I am willing to admit that, Your Honor — that you are an authority on evidence — so that we may be able to get your contribution.

My only point now is: Is Your Honor willing to just have a suspension for a few minutes so that we can thresh this out?

Senator FERNANDEZ. Yes.

#### SUSPENSION OF THE SESSION

Senator TOLENTINO. Mr. President, I move for the suspension of the session for a few minutes.

The PRESIDENT PRO TEMPORE. Is there any objection? (*Silence.*) The Chair hears non. The session is suspended for a few minutes.

*It was 12:41 p.m.*

#### RESUMPTION OF THE SESSION

*The session was resumed at 12:48 p.m.*

The PRESIDENT PRO TEMPORE. The session is resumed.

Senator RODRIGO. Mr. President.

The PRESIDENT PRO TEMPORE. The gentleman from Bulacan.

Senator RODRIGO. Mr. President, after the further consultation and based on the suggestions by the Minority Floor Leader, Senator Fernandez, I would like to restate my amendment. In the same place indicated by me, add the following:

"IT SHALL ALSO BE UNLAWFUL FOR ANY PERSON, BE HE A PARTICIPANT OR NOT IN THE ACT OR ACTS PENALIZED IN THE NEXT PRECEDING SENTENCE, TO KNOWINGLY POSSESS ANY TAPE RECORD, WIRE RECORD, DISC RECORD, OR ANY OTHER SUCH RECORD, OR COPIES THEREOF, OF ANY COMMUNICATION OR SPOKEN WORD SECURED EITHER BEFORE OR AFTER THE EFFECTIVE DATE

OF THIS ACT IN THE MANNER PROHIBITED BY THIS LAW; OR TO REPLAY THE SAME FOR ANY OTHER PERSON OR PERSONS; OR TO COMMUNICATE THE CONTENTS THEREOF, EITHER VERBALLY OR IN WRITING, OR TO FURNISH TRANSCRIPTIONS THEREOF, WHETHER COMPLETE OR PARTIAL, TO ANY OTHER PERSON; PROVIDED THAT THE USE OF SUCH RECORD OR ANY COPIES THEREOF AS EVIDENCE IN ANY CIVIL, CRIMINAL INVESTIGATION OR TRIAL OF OFFENSES MENTIONED IN SECTION 3 HEREOF, SHALL NOT BE COVERED BY THIS PROHIBITION."

The PRESIDENT PRO TEMPORE. Is there any objection? (*Silence.*) The Chair hears none. The amendment is approved.

Senator TAÑADA. Mr. President, if there are no more amendments, I move for the approval of this bill as amended on second reading.

Senator FERNANDEZ. Mr. President.

The PRESIDENT PRO TEMPORE. The gentleman from Laguna.

Senator FERNANDEZ. Mr. President, I would want really this bill approved but, as I was saying, I arrived when we were already on this portion, and I would request, if it is possible, that we mimeograph this bill with all the amendments already for one final look at it at our next session.

Senator TOLENTINO. Mr. President.

The PRESIDENT PRO TEMPORE. The Majority Floor Leader.

Senator TOLENTINO. Mr. President, I have a suggestion to accommodate the distinguished gentleman from Laguna. We could approve this bill now on second reading, and we could ask that the bill be mimeographed for distribution even before our next meeting. And I will not object to any motion to reopen or reconsider in case there is any desire

yet to reconsider the bill. That will safeguard the desire of the distinguished gentleman from Laguna to make any insertion should he desire to do so.

Senator TAÑADA. Mr. President, I would like to reiterate the motion that I made that this bill, as amended, be approved on second reading.

Senator FERNANDEZ. Mr. President, may I just make one short remark? I realize the need of our being able to do something today before we adjourn for the Holy Week. At the same time, nobody will begrudge our taking the necessary precaution. I was thinking that it might be better that this bill be mimeographed with all the amendments before we approve it on second reading. However, the distinguished Majority Floor Leader has agreed that anybody can ask for reconsideration when we meet again next session, or for any matter especially for those who are not here. Some members of the Senate who are also good lawyers are not here, and I do not want to be blamed by them. With these short remarks, I have no more to say.

APPROVAL OF THE SENATE BILL NO. 9  
ON SECOND READING

The PRESIDENT PRO TEMPORE. Those who are in favor of the bill will please say *aye*. (*Several senators: aye.*) Those who are against will please say *nay*. (*Silence.*) The bill as amended is approved on second reading.

ADJOURNMENT OF THE SESSION

Senator TOLENTINO. Mr. President, I move that we adjourn until March 30, at 10:00 o'clock in the morning.

The PRESIDENT PRO TEMPORE. If there is no objection, the session is adjourned until March 30, at 10:00 o'clock in the morning. (*There was none.*) *It was 12:59 p.m.*

Secretary will please read the title of the bill only, if there is no objection. (*There was none.*)

The SECRETARY:

AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES.

The PRESIDENT PRO TEMPORE. The Senate will proceed to vote on the bill. The Secretary will please call the roll.

The SECRETARY:

Senator Alejandro D. Almendras .....	Yes.
" Gaudencio E. Antonino .....	Absent.
" José W. Diokno .....	Absent.
" Estanislao A. Fernández .....	Absent.
" Rodolfo T. Ganzon .....	Yes.
" María Kalaw-Katigbak .....	Yes.
" Juan R. Liwag .....	Yes.
" Genaro F. Magsaysay .....	Absent.
" Manuel P. Manahan .....	Yes.
" Raul S. Manglapus .....	Absent.
" Ferdinand E. Marcos .....	Yes.
" Camilo Osías .....	Absent.
" Ambrosio Padilla .....	Yes.
" Gil J. Púyat .....	Absent.
" Francisco Rodrigo .....	Yes.
" Eulogio Rodríguez, Sr. ....	Absent.
" Gerardo M. Roxas .....	Absent.
" José J. Roy .....	Yes.
" Lorenzo Sumulong .....	Absent.
" Lorenzo M. Tañada .....	Yes.
" Arturo M. Tolentino .....	Yes.
" Tecla S. Ziga .....	Yes.
The PRESIDENT PRO TEMPORE .....	Yes.

The PRESIDENT PRO TEMPORE. With thirteen affirmative votes, Senate Bill No. 9 is approved on third reading.

CONSIDERATION OF SENATE BILL NO. 532

Senator TOLENTINO. Mr. President, I move that we consider Senate Bill No. 532, to be sponsored by the distinguished Chairman of the Committee on Ways and Means, Senator Roy.

The PRESIDENT PRO TEMPORE. The Secretary will read the bill.

The SECRETARY:

S. No. 532

AN ACT TO AMEND SECTION THREE HUNDRED AND NINE OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND SIXTY-SIX, OTHERWISE KNOWN AS "THE NATIONAL INTERNAL REVENUE CODE."

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

SECTION 1. Section numbered three hundred and nine of the National Internal Revenue Code is hereby amended to read as follows:

SEC. 309. Authority of [Collector] COMMISSIONER to make compromises and to refund taxes.—(a) The [Collector] COMMISSIONER of Internal Revenue may compromise any civil or [other] CRIMINAL case arising under this Code or other law or part of law administered by the Bureau of Internal Revenue, may credit or refund taxes erroneously or illegally received, or penalties imposed without authority, and may remit before payment any tax [that appears to be] unjustly assessed [or excessive]; *PROVIDED, HOWEVER, THAT ANY COMPROMISE OF A CASE OR ANY CREDIT OR REFUND OF A TAX WHERE THE AMOUNT INVOLVED EXCEEDS FIFTY THOUSAND PESOS (INCLUDING INTERESTS, SURCHARGES, ADDITIONS TO TAX OR ASSESSABLE PENALTIES) SHALL BE SUBJECT TO THE APPROVAL OF THE SECRETARY OF FINANCE WHO SHALL SUBMIT A DETAILED REPORT THEREOF TO THE WAYS AND MEANS COMMITTEE OF BOTH HOUSES OF CONGRESS; PROVIDED, FURTHER, THAT SUCH COMPROMISE, TAX CREDIT OR REFUND SHALL NOT BECOME FINAL UNTIL AFTER THIRTY DAYS FROM RECEIPT OF THE REPORT THEREOF BY THE WAYS AND MEANS COMMITTEE OF BOTH HOUSES OF CONGRESS; PROVIDED, FINALLY, THAT IN CASE OF INDIRECT TAXES, NO CREDIT OR REFUND SHALL BE ALLOWED WHERE THE AMOUNT OF THE TAX IS PASSED ON TO THE CUSTOMER OR IS INCLUDED IN THE PRICE OF THE ARTICLE, SERVICE OR ADMISSION.*

He shall refund the value of internal-revenue stamps when the same are returned in good condition by the purchaser, and may, in his discretion, redeem or exchange unused stamps that have been rendered unfit for use, and may refund their value upon proof of destruction.

The authority of the [Collector] COMMISSIONER of Internal Revenue to credit or refund taxes or penalties under this Section can only be exercised if the claim for credit or refund is made in writing and filed with him within two years after the payment of the tax or penalty.

(b) *RECORD: WHENEVER A TAX CREDIT OR REFUND IS MADE BY THE COMMISSIONER OR A CASE IS COMPROMISED BY HIM OR IN PROPER CASES BY HIS DELEGATE, THERE SHALL BE PLACED ON FILE IN THE OFFICE OR THE COMMISSIONER OR HIS DELEGATE, HIS OPINION WITH HIS REASONS THEREFOR, AND A STATEMENT OF:*

- (1) THE AMOUNT OF TAX ASSESSED
- (2) THE AMOUNT OF INTEREST, SURCHARGE, ADDITION TO THE TAX, OR ASSESSABLE PENALTY IMPOSED BY LAW ON THE PERSON AGAINST WHOM THE TAX IS ASSESSED; AND

(3) THE AMOUNT ACTUALLY PAID IN ACCORDANCE WITH THE TERMS OF THE COMPROMISE OR AMOUNT OF TAX CREDITED OR REFUNDED IN PROPER CASES: *PROVIDED, HOWEVER, THAT NO SUCH OPINION SHALL BE REQUIRED WITH RESPECT TO THE COMPROMISE OF ANY CASE IN WHICH THE AMOUNT INVOLVED (INCLUDING IN-*

APPROVAL OF CONFERENCE COMMITTEE  
REPORT ON S. B. No. 9 and H. B. No. 1314

Senator TOLENTINO. Mr. President, I have here for consideration a conference committee report. The Senate conference committee on Senate Bill No. 9 and House Bill No. 1314 with respect to prohibiting and penalizing wire tapping has already submitted its report. The report is that the Senate bill be adopted with a certain amendment in form. I ask that the Secretary read the bill.

The PRESIDENT PRO TEMPORE. The Secretary will please read the report.

The SECRETARY:

CONFERENCE REPORT

The Conference Committee on the disagreeing provisions of the two measures, viz: Senate Bill No. 9, entitled:

"AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES."

and House Bill No. 1314, entitled:

"AN ACT PROHIBITING WIRE TAPPING BY ANY INDIVIDUAL, POLICE, SECRET SERVICE AGENTS OF CITIES AND MUNICIPALITIES OR ANY AGENT OR PERSONNEL OF THE PHILIPPINE CONSTABULARY OR THE NATIONAL BUREAU OF INVESTIGATION AND POSSESSION OF WIRE TAPPING EQUIPMENT, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF."

after having met and fully discussed the subject matter in the conference, has come to an agreement, and the conferees hereby recommend to their respective House the following:

THAT S. No. 9, TAKING INTO CONSIDERA-

TION H. No. 1314, BE ADOPTED. Delete sentence starting from word "Provided" line 8, Sec. 1, up to word "Committed" line 5, same sec. page 2.

*Conferees on the part of the Senate*

(Sgd.) LORENZO SUMULONG  
Senator L. SUMULONG

(Sgd.) LORENZO M. TAÑADA  
Senator L. TAÑADA

(Sgd.) JUAN LIWAG  
Senator J. LIWAG

*Conferees on the part of the House*

(Sgd.) J. BRIONES  
Cong. J. BRIONES

(Sgd.) F. CRISOLOGO  
Cong. F. CRISOLOGO

(Sgd.) T. NATIVIDAD  
Cong. T. NATIVIDAD

Senator TOLENTINO. I move that we approve this conference report.

The PRESIDENT PRO TEMPORE. Is there any objection? (*Silence.*) The Chair hears none. The conference report is approved.

CONSIDERATION OF SENATE BILL No. 868.  
(Continuation.)

Senator TOLENTINO. Mr. President, I move that we consider Senate Bill No. 868 to be sponsored by the distinguished gentleman from Rizal, Senator Sumulong.

The PRESIDENT. The gentleman from Rizal is recognized.

Senator SUMULONG. Mr. President, I think that we were already in the stage of entering into the period of amendments last night when we suspended consideration of this bill. I, therefore, ask, Mr. President, if there is no objection that we now pass to the period of amendment.