

that the bill now introduced as Committee Report is practically the bill that was approved by the Senate on the nationalization of the rice and corn industry with one or two alterations — the matter of financing as approved in the Senate in the sense that neither the GSIS nor the SSS are involved in the financing but only the Philippine National Bank and the old Rehabilitation Finance Corporation, now the Development Bank of the Philippines; and the two-year period of grace given to aliens for trading, warehousing and milling are also found in the old bill of the Senate approved by the Senate. So, I cannot say that this bill has really been authored by any particular individual member of the Senate who claims this distinction.

Senator PRIMICIAS. To my knowledge, there is no single senator who claims exclusive authorship of the bill.

Senator MARCOS. I hope so, Mr. President.

CONSIDERATION OF SENATE BILL NO. 571
(Continuation.)

Senator PRIMICIAS. Mr. President, I ask that we now resume consideration of Senate Bill No. 571. The distinguished gentleman from Manila, Senator Tolentino, will continue the sponsorship. I ask that he be recognized.

The PRESIDENT. The gentleman from Manila is recognized.

Senator TOLENTINO. Mr. President, we are now in the period of amendments.

Senator MARCOS. Mr. President, will the gentleman allow a continuation of the interpellation for a few minutes? There are some questions that I failed to ask yesterday on this new version of the bill.

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

Senator TOLENTINO. Gladly.

Senator MARCOS. The first question that I would like to ask is if the intention of the author of this bill is to carry over from the original bill that was

vetoed by the President the intention to punish corrupt practices and graft committed not only by public officials but also by private persons. Will the distinguished author inform us in what particular aspect, point or provision this bill has been changed?

Senator TOLENTINO. Substantially, there is actually no change in the bill as it is now. As I have indicated, the change that have been introduced in the bill are in the nature of clarifying provisions to show the scope that has been misunderstood because of the terminology of the bill itself. There is no intention to change in substance any of the provisions of the bill.

Senator MARCOS. Should any question arise in the judiciary as to the purpose of Congress in repassing this bill, can it be said then that the purpose of Congress is to clarify the objections of the President only?

Senator TOLENTINO. Yes, that is primarily stated in my sponsorship speech such that I even made reference to the debate on Senate Bill 293 as being incorporated by reference in the sponsorship of the measure to show the intent of the Congress with respect to the provisions which have been copied from Senate Bill 293 or the consolidated measure vetoed by the President.

Senator MARCOS. In which case, Mr. President, will the distinguished Chairman of the Committee on Revision of Laws inform us if he has any amendment to submit in the nature of committee amendment which may alter the phraseology or purpose of any of the provisions?

Senator TOLENTINO. Some members of the Chamber have submitted to me some amendments and I have gone over them and I have agreed to take them up as committee amendments. I do not believe they would make any substantial change in the provisions or intention of the bill. That is why I am going to submit them when we come to the period of amendments.

Senator MARCOS. May I know the effectivity of Section 13, page 7 of the bill which reads as follows?:

“Termination of officer. — No public officer shall be allowed to resign or retire pending an investigation, criminal or administrative, or pending a prosecution against him, for any offense under this Act or under the provisions of the Revised Penal Code on bribery.

“The cessation or separation of a public officer from office shall not be a bar to his prosecution under this Act for an offense committed during his incumbency.”

Does this mean that this provision will apply to pending administrative cases?

Senator TOLENTINO. I think it can be applied without any valid constitutional objection because this is mostly of an administrative nature. It would not make the offense any heavier or the penalty any heavier. But, at any rate, that would apply perhaps to cases of bribery because that is the only other offense that is not included within the provision of this Act.

With respect to those offenses penalized for the first time in the provisions of this Act, of course, we can contemplate these to be future offenses, offenses committed after the approval of this Act. So, it would be applicable only in the future. But with respect to offenses of bribery which may now be under prosecution, I believe we can apply this provision notwithstanding the fact that the bribery was committed prior to the enactment of this law.

Senator MARCOS. I notice that the term “criminal or administrative” is utilized on line 18 of this page, thus apparently, deliberately, covering the entire scope of investigations. However, the term “criminal or administrative” refers to investigation.

Senator TOLENTINO. Yes.

Senator MARCOS. I would like to clarify this. I would like to know whether this refers to a main trial during the prosecution for an offense.

Senator TOLENTINO. Yes. There is another phrase there, “or pending a prosecution against him”.

Senator MARCOS. Thus, the investigation refers

to both criminal and administrative, and the prosecution refers only to criminal prosecution.

Senator TOLENTINO. That is correct.

Senator MARCOS. And the administrative investigation refers to a hearing which is not only preliminary.

Senator TOLENTINO. Yes.

Senator MARCOS. The main investigation itself may be considered as within the purview of this provision.

Senator TOLENTINO. Correct.

Senator MARCOS. The second paragraph refers to cessation or separation from the service. Suppose the cessation or separation from the service is part of the penalty imposed by the court, does this mean that he can be prosecuted for the same offense?

Senator TOLENTINO. Of course not if it is for the same offenses. There is double jeopardy. But there may be a case where an official may have been prosecuted for an offense and a part of the penalty is disqualification or separation from office and then comes an offense under this act. The mere fact that he has been separated from office because of a judgment will not prevent prosecution under this act for a different offense.

Senator MARCOS. I see. If the offense charged is identical with the original offense, or rather, with the offense under which he was first prosecuted, there would be double jeopardy.

Senator TOLENTINO. Yes, there would be no necessity of invoking this provision.

Senator MARCOS. So, this provision would not authorize a second prosecution for the same offense?

Senator TOLENTINO. Of course, not.

Senator MARCOS. This cessation or separation of a public officer from office appearing in the second paragraph therefore, precisely, refers to the administrative investigation.

Senator TOLENTINO. Not necessarily. He might have resigned, or in case of an elective official, the term of his office might have expired. Or he might have been removed from office by virtue of a conviction under this bill and then a new offense also under this bill may be prosecuted.

Senator MARCOS. Very well, I will submit the question in example form. Supposing a public officer is investigated administratively. The result of the investigation is a judgment removing him from office. But the same offense constitutes the crime of "corrupt practice" under this act. Does this administrative decision of expulsion from office or removal from office be a bar from prosecution for corrupt practice in court?

Senator TOLENTINO. Certainly not. He will still be subject to prosecution in court.

Senator MARCOS. Another example. Suppose he is prosecuted in court for a violation of Section 3, subsection (a), page 2, and because of this he is removed from office. For some reason or another the decision of the court is removal from office. However, the same offense constitutes a violation of Section (i). My question is: Can he be prosecuted for this act under Subsection (a)?

Senator TOLENTINO. Your Honor says that the same act constitutes violation of the same offense of the two sections? Well, I have my doubts there because the question of jeopardy might come in. Not precisely because of the provision in Section 13 but it may be a question of jeopardy. I am not prepared to make a definite opinion on that. But, I think, the question that may arise is the question of jeopardy, whether double jeopardy or not, I am not prepared to make a statement. The same act is punishable under the two sections of the same law; there may be a possibility of double jeopardy.

Senator MARCOS. Is there any instance in this bill, authored by the distinguished gentleman, where in the same act constituting an offense under two

different provisions may not constitute double jeopardy or may not put the problem of double jeopardy before the courts?

Senator TOLENTINO. The same act punishable under two different provisions? I am afraid the question of jeopardy will always arise if it is the same. For example, I would say, take the case of the prohibition on the relatives of the President, the Vice-President, the Senate President and the Speaker. He intervenes in a transaction which is prohibited, but at the same time he receives a gift for his intervention. He would be, I think, liable under two provisions of this bill, that is, the act complained of. I don't think you might prosecute him under two separate informations. He might and there may be the likelihood of presenting the question of jeopardy.

As I said, I do not wish to commit myself definitely on whether there would be jeopardy or not, but there is the possibility that the question of jeopardy may be raised.

Senator MARCOS. I recall precedents in our judiciary where this decision has been allowed on the single act of violation of two separate provisions in the Revised Penal Code which has been the subject of the prosecution twice.

Senator TOLENTINO. As I said, I do not wish to commit myself on that, because I am not prepared to make a definite statement. But, as I said, the question of jeopardy might be raised. Whether it will constitute double jeopardy in the opinion of the court, I am not prepared to state just now.

Senator MARCOS. Since the gentleman is not ready to answer, I am willing to let it pass.

Senator TAÑADA. Mr. President.

The PRESIDENT. Gentleman from Quezon.

Senator TAÑADA. Since this discussion will be consulted when this law is interpreted by the court, may I bring to the attention of the sponsor the provision of our Constitution, which says:



"No person shall be twice put in jeopardy of punishment for the same offense." (Art. III, Sec. 1(20))

So, the prohibition against double jeopardy is for the same offense.

Senator TOLENTINO. Not for the same act.

Senator TAÑADA. Not for the same act, so that if the act violates two provisions of the Anti-Graft Law, I believe there will be no double jeopardy. Thank you.

Senator TOLENTINO. Thank you for that authoritative opinion, Your Honor.

Senator MARCOS. Although I would like to state also that in certain instances in certain later cases there had been doubts cast on the problem of double jeopardy, that offense as offenses be inter-changed with acts and vice versa. However, as the constitutionalist from Quezon has well said, that is the provision of the Constitution.

May I go to another point? Yesterday I spoke on the possibility of a Member of the Senate committing an act in violation of Section 6 on the prohibition on the Members of Congress because of the use of the words: "during the term for which he has been elected." I want to clarify the meaning of that in relation to the Members of the Senate or of the Members of the Lower House. Does this mean that for the Members of the Lower House the term shall be four years and for the Members of the Senate six years?

Senator TOLENTINO. Obviously, that is the intention, Your Honor.

Senator MARCOS. How about those elected in special elections?

Senator TOLENTINO. His term is for the period for which he was elected.

Senator MARCOS. For the period for which he was elected?

Senator TOLENTINO. Yes.

Senator MARCOS. Now, is there any possibility of accessories participating in the crime committed under Section 6? And if so, will the distinguished author of the bill please inform us how those accessories can be done?

Senator TOLENTINO. I doubt very much if that can be done. This is a special statute where everybody is penalized for his own act and where the rules of accomplices and accessories might have no application. They would all be co-principals if they participate in the same act. I cannot conceive of how an accessory who benefits from the effects of the offense, for instance, could come in under Section 6.

Senator MARCOS. No. May I call attention to the usual go-between of influence peddling, who is usually a private individual. What crime does he commit?

Senator TOLENTINO. He is the agent or the contact of the public official?

Senator MARCOS. Well, yes.

Senator TOLENTINO. I do not suppose he is penalized under Section 6. This refers exclusively to the members of Congress.

Senator MARCOS. Does he not fall under Section 4 perhaps? A person who has close personal relations, of course that falls under subsection (a) of Section 4 — who, because of his close personal relations, induces a senator to influence the Monetary Board to grant a license, and because of such, he requests a gift from the licensee.

Senator TOLENTINO. Well, if we could make it fall under this provision. But the fact that he has induced the senator to have the act approved, maybe he would fall under paragraph (a) of Section 4. But Your Honor's example was one who was just a go-between between the senator and the private enterprises that are benefited. More or less, he is a messenger there. He does the work of a messenger actually. He just transmits the

messages between the parties who do not want to be seen in close contact with each other.

Senator MARCOS. I asked this question because of the speech of the distinguished gentleman entitled "Unjustified Veto", a privileged speech delivered on June 23, 1960, wherein he explained — even the gentleman used the term — that girl friends are considered as close in personal relations to a public officer. I understand that this term was taken from the erudite constitutionalist, the gentleman from Quezon, whose experience of course on these matters may be more extensive than ours.

Senator TOLENTINO. Well, I made a statement to that effect in my privileged speech, giving that as an example of a close personal relation.

Senator MARCOS. Now, if that is so, would not a go-between — who is presumed to have close personal relations with the public officer, because he is a go-between, and he has knowledge of the secrets of the transaction — fall under subsection (a) of Section 4 of this bill?

Senator TOLENTINO. It is possible, Your Honor. Because if it can be shown that he is really the confidant of the public officer and to whom the public officer entrusts very confidential missions of this nature, well, he would fall under the classification of close personal relations, but it must be proved that he received some consideration. If the only thing shown is that he has been a go-between, then he would not be punished. He would have no responsibility. But if it is shown in addition that he has received some consideration, the possibility of having committed the offense under paragraph (a) of Section 4 is very evident.

Senator MARCOS. I am glad the gentleman brought that up, because the bill speaks of a person directly or indirectly requesting or receiving a present, gift or material or pecuniary advantage. Does this mean that the private individual has to receive a gift in order to commit this offense, or is it sufficient that he requests such a gift even if he does not receive it?

Senator TOLENTINO. The request may be sufficient. There are two portions there, receiving and requesting. It is alternative.

Senator MARCOS. Is it the intention of the author to make it subject to a heavier penalty if the gift is received?

Senator TOLENTINO. That will be left to the discretion of the court, because the range of the penalty is quite big, up to ten years.

Senator MARCOS. Five to ten years.

Senator TOLENTINO. No, one to ten years. So, the range is wide, and that gives the court a great deal of discretion in determining the amount of the penalty that should be imposed under the circumstances of each case.

Senator MARCOS. Now, if the author will allow me, I would like to read the veto message of the President on the matter of Section 4. "Consequently," he said, "it does not satisfy the element of definiteness and clearness required of a law having penal sanctions. It is, therefore, violative of the due process guaranty of our Constitution." Thus it is that I ask these questions explicitly and definitely establishing the limitations and boundaries of the provision. So, allow me to proceed and I ask the gentleman: What is meant by directly or indirectly requesting?

Senator TOLENTINO. Well, it may be through some other individual. That would be indirect — through some intermediary.

Senator MARCOS. I see. Now, there have been long discussions on the problem of what is a pecuniary advantage and this bill utilizes this term without any definition. It merely states "It shall be unlawful for any person to directly or indirectly request or receive any present, gift or material or pecuniary advantage from any other person having some business transaction, application, request, or contract with the Government". Is there any standard which the gentleman can conceive of, which may guide the Judiciary or the Executive in implementing this particular provision? What

kind of a gift is it, what value and of what nature should it be?

Senator TOLENTINO. Well, the material or pecuniary advantage perhaps could be indicated when there is some addition of value, although the exact value or amount may be impossible of accurate determination. So long as it can be shown that there is some addition to, we may say, the assets of an individual, he acquires an advantage. But as to the exact value, it is not possible to lay down a hard and fast rule, although there is an exception in the bill with respect to small gifts or things given according to customs, and that is given in Section 15, which reads: "Unsolicited gifts or presents of small or insignificant value offered or given as a mere ordinary token of gratitude or friendship according to local customs or usage, shall be excepted from the provisions of this Act." So, above that exception would be considered as already within the scope of the material or pecuniary advantage referred to in the definition of offenses.

Senator MARCOS. Well, again I thank the gentleman from calling attention to Section 15, because I was going to ask a second question: What is meant by small or insignificant value? Does it include a dinner, or does it include a golf set worth P500, a pair of shoes even, or a suit or a necktie? You see, the President has cast doubts on the clearness of this statute, and so if the gentleman will allow me, I would like to address these questions to Your Honor and to any member of the Senate who might want to submit his opinion on the matter.

Senator TOLENTINO. It is very difficult, Your Honor, to determine in exact amount, by pesos and centavos, what would be of insignificant value. As indicated yesterday, the same is true with what we have as manifestly excessive amount. That has to be determined by the circumstances surrounding each case. But the circumstances will determine whether an amount is insignificant or not and whether this is according to local customs and usages. There are requisites there as to the

nature of the gift in order to place the gift under the exception. So, as I said, with respect to the exact amount in pesos and centavos, we cannot lay down a determinate stand, but we have to determine this in the light of of the circumstances of the case.

Senator MARCOS. It is to be presumed, therefore, I gather, that the judiciary will be guided by the precedents established in bribery cases on amounts that are considered of such insignificant and small value so that they may be considered as ordinary token of gratitude and friendship.

Senator TOLENTINO. Of course, the courts can resort to these decisions already rendered,

Senator MARCOS. Now, I understand that there are some more members who would like to interpellate the distinguished gentleman, so I will limit myself to one last question. The second paragraph, Section 15, provides an exception which reads: "Nothing in this Act shall be interpreted to prejudice or prohibit the practice of any profession by any PRIVATE PERSON OR BY ANY public officer who under the law may legitimately practice his profession during his incumbency." What professions are within the scope of this provision, any profession whatsoever?

Senator TOLENTINO. Well, by profession here I would think the recognized professions which are regulated by law, because professions are actually regulated by law.

Senator MARCOS. I ask that because there was somebody who commented that perhaps influence peddling is a profession.

Senator TOLENTINO. No, not right now, but if some people would want to make it a profession, then it should be by legislation. The proper examination would have to be offered, a board should be created, and the manner of licensing provided for. But right now it is not a profession. It might be an occupation, but it is not a profession.

Senator MARCOS. I see. The reason I ask this is because there are some persons who are en-

gaged as agents on commission basis for certain transactions. Do they fall within this provision?

Senator TOLENTINO. Agents?

Senator MARCOS. Yes, on a commission basis.

Senator TOLENTINO. No, they do not come under this provision on profession.

Senator MARCOS. So the intermediaries who may claim as exception, as agents duly licensed or brokers on commission basis, do not fall within this provision?

Senator TOLENTINO. No, Your Honor.

Senator MARCOS. I see. Well that is all that I would like to ask right now. Mr. President, I reserve the right to submit the amendments that I referred to during the period of interpellation.

Senator SABIDO. Will the gentleman yield to a couple of questions?

Senator TOLENTINO. With pleasure.

Senator SABIDO. What happened to the Filipinization or nationalization of the rice and corn industry bill which brings to the fore the need, in my opinion, of construing properly the word "authorized" used in Section 6 of the bill? Now, here are two bills originally filed on this subject. Then the Committee reports not the two bills authored by the different members appearing therein but another supposedly authored by the Committee. Now, who would Your Honor consider under the provisions of Section 6 as the author of the bill if approved, all the members of the Committee or the original authors of the two bills? I am referring to Senate Bills Nos. 572 and 573. Who will be considered as the authors, all the members of the Committee or those appearing on the original bills submitted to the Committee?

Senator TOLENTINO. In a case like this, if Your Honor is referring actually to what happened to Senate Bills Nos 572 and 573 and the new version, Senate Bill No. 574, they are identical and all those who have signed the bill become authors of this bill. They initiated the bill.

Senator SABIDO. All those who signed Senate Bills Nos. 572 and 573?

Senator TOLENTINO. Yes.

Senator SABIDO. What about the members of the Committee who are not signers of these original bills in whose names the bill was finally reported out by the Committee?

Senator TOLENTINO. They likewise become authors of the bill.

Senator SABIDO. Now, if in Your Honor's opinion they become authors of the bill and, therefore, within the scope of the provisions contained in Section 6, will it be improper or immoral for anyone of the authors to participate in a corporation that may be later on organized for the purpose precisely of wresting or retrieving from alien control such a vital industry?

Senator TOLENTINO. Your Honor's example will not fall under the provisions of Section 6.

Senator SABIDO. Why not, Your Honor? He will derive benefit from the bill that he authored because were it not for this bill he could not have a chance perhaps to participate in a corporation that may be organized and subsequently taking advantage of the funds that are provided therein to be loaned to the one selling rice or engaging in a business enterprise.

Senator TOLENTINO. There is one thing that I would like to make clear. I think it is clear enough in the bill but it seems to me there is some confusion in this respect. The intention of the provision is this, that no member of Congress should initiate a bill to favor a particular business enterprise and later on after that favor has been granted acquire an interest in the enterprise. In other words, at the time that he introduced the bill there is an enterprise already in existence that would be favored by the bill and he acquired subsequently an interest therein. That is why it is the specific business enterprise that is referred to in the bill.

Senator SABIDO. There are now Filipinos en-

gaged in buying and selling rice and in milling rice and corn. And we are approving this nationalization bill, or which properly is a Filipinization bill, for the purpose of favoring precisely this particular enterprise or business. Now, after we have approved this bill, we have done everything to favor these existing enterprises. Will a member of Congress who signed the bills that are consolidated be precluded or inhibited from participating in anyone of these businesses or enterprises?

Senator TOLENTINO. If Your Honor is referring to existing enterprises definitely favored by the bill, well, he will be disqualified surely during his term of office.

Senator SABIDO. Is there any reason for such disqualification?

Senator TOLENTINO. But Your Honor is giving an example which is an exception. This provision is being introduced in order precisely to avoid the creation of conflict of interest between a public official and interest in a private enterprise. Maybe there are some enterprises favored and you would see that the funds of the public official would be very well invested in such private enterprise. But the idea is to prevent the conflict of interest and that is during the term of office.

Senator SABIDO. Is it possible to establish certain exceptions?

Senator TOLENTINO. I do not know. How would you establish exceptions? Because the moment you go establishing exceptions in a case like this... I do not know how. I would like to hear. I am open-minded on this matter. But we should bear in mind the idea that we should avoid this conflict of interest. What would be the exceptions, for instance, in a case like this?

Senator SABIDO. This case, for instance.

Senator TOLENTINO. How would Your Honor formulate the exception when the business is for the benefit of the country? Do we suppose that there are enterprises for which we would legislate

favorably which are not for the benefit of the country?

Senator SABIDO. At this instance, I am not ready to formulate the phraseology of the exception. But there are cases which might be excepted from the provision of this section.

Senator TOLENTINO. If Your Honor could, during the period of amendments, be able to formulate the amendment I would gladly consider it. I recognized the possibility of Your Honor's proposition.

Senator SABIDO. Now, Your Honor made a statement which is far-reaching in my opinion and that is, that this provision does not cover a case of an enterprise or business that is not yet existing. Let us take the case of another bill which, I think, we approved in the Senate and that is the bill granting a franchise to a certain corporation to exploit a discovery, I believe, to utilize the low-grade tobacco or the tobacco waste or a process to make the local tobacco look as Virginia tobacco. There is no existing enterprise or corporation yet. Now, I pose this question. May the author of such a measure organize subsequently a corporation and participate therein, because Your Honor said that this provision does not cover such case of an enterprise or business organized after the approval of the measure?

Senator TOLENTINO. I do not think that such member of Congress could have an interest in such corporation.

Senator SABIDO. I agree with Your Honor. Does not Your Honor believe that we should also cover it?

Senator TOLENTINO. I think it is covered. I am looking for it. Under paragraph (h) of Section 3, page 3, we find this provision:

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

Your Honor spoke practically of a franchise and no member of Congress during his term can have an interest in such a franchise.

Senator SABIDO. There is such prohibition in the Constitution when it comes to franchise. But it might be a bill not precisely granting franchise but favoring the establishment of this corporation. My question is, may a member of Congress who intervenes in the approval of such a measure favoring the establishment of a given enterprise participate in the enterprise?

Senator TOLENTINO. The author of the bill, yes, he may not.

Senator SABIDO. Well, Your Honor seems to change your position because Your Honor has just stated that Section 6 refers to enterprises or businesses already existing and not to enterprises or businesses to be established or organized. That is what Your Honor said. That is why I said Your Honor made a far-reaching statement regarding the proper interpretation that should be given to Section 6.

Senator TOLENTINO. That is the interpretation I have in mind for Section 6. But I think the example of Your Honor would fall under some other provision of the bill. There was a case that came up here one time, I do not know the name of the corporation actually, but I seem to recall a case where there were two match factories which were fighting it out here.

Senator SABIDO. That is right, when we approved the bill eliminating the exemption on the payment of taxes of new and necessary industries.

Senator TOLENTINO. There were provisions in the bill which would actually benefit just one corporation. If an interest is later acquired there by the author of the bill, he would fall under the provision of Section 6.

Senator SABIDO. If he is the author of the bill.

Senator TOLENTINO. Yes.

Senator SABIDO. But if he is not the author?

Senator TOLENTINO. He will not fall under Section 6.

Senator SABIDO. But that is already an established business or enterprise. I am referring to a business or enterprise not yet established but favored by a member of Congress.

Senator TOLENTINO. I think it is in the word "enterprise" where we do not seem to meet, Your Honor, because Your Honor is giving the interpretation to that word "enterprise" as referring to the business itself in general.

Senator SABIDO. No, not necessarily. I am not referring to the business in general because in that case of the bill that we approved, the microflakes bill, that bill did not refer to the business of tobacco in general but to a given corporation to be established.

Senator TOLENTINO. But if it is to be established in the future to be given a special privilege, that falls under subsection (h) which I have read because even if it is not a franchise, if it is a special privilege given, we are inhibited from acquiring interest during our term of office.

Senator SABIDO. If it is a franchise.

Senator TOLENTINO. The Constitution does not just use the word "franchise" but also the words "special privilege", a franchise or special privilege.

Senator SABIDO. So, Your Honor is of the opinion that subsection (h), Section 3, would apply to a future enterprise.

Senator TOLENTINO. Yes, Your Honor. And the scope will be broader, it is not only the author but every member of Congress is covered.

Senator SABIDO. The more reason then for us to insert the amendment I suggested that it is not necessary for a member of Congress to actually intervene, but if he intervenes or takes part he would readily be included.

Senator TOLENTINO. That is why we readily accepted Your Honor's amendment.

Senator SABIDO. Thank you.

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

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

Senator TOLENTINO. Gladly.

Senator PAREDES. I take it that the main purpose of the bill is to avoid public officials giving way to pressure from persons in or outside of the Government.

Senator TOLENTINO. Yes, partly, Your Honor.

Senator PAREDES. Now, I was thinking of a case like this. Suppose there is an appropriation bill pending in the Lower House or in the Senate, or a committee or on the floor. The Department Secretary or chief of bureau is interested in having this appropriation approved and he is asked to give an allocation of employees for the members of the Committee or the members of the Senate, or else he would not get the appropriation. The promises were made and the appropriation is granted. Will the congressman or senator be liable, when it is not for his own personal benefit?

Senator TOLENTINO. There is no liability under this bill for that.

Senator PAREDES. Don't you believe that we should put something like this in the bill?

Senator TOLENTINO. Well, under the ordinary standards of definition of graft, I doubt if that would constitute graft or even a corrupt practice. That seems to be inherent in the process of legislation and in the very control of Congress over the budget. It may be improper, but it would not perhaps constitute graft.

Senator PAREDES. I would bring a closer case. For instance, the beneficiary is a relative of a member of the Lower House or of the Senate. In

this particular case, will he not be subject to penalty?

Senator TOLENTINO. How is that? For instance, a pension bill?

Senator PAREDES. Suppose, under the pension bill, he wants the support of a congressman or senator. He says: "All right, I will push through the bill, but you have to employ my son or husband or wife in your company once the bill is approved."

Senator TOLENTINO. He will be punished under some provisions of this bill if that is the condition.

Senator PAREDES. He will be punished? That is not for his personal benefit?

Senator TOLENTINO. That will be an indirect benefit.

Senator PAREDES. I think all the benefits here refer to benefits for himself under section 3, par. (b), line 15 — for himself. Par. (c), line 23, for himself, and then under letter (f), page 3, "pecuniary or material benefit or advantage," — which means for himself. But the advantage is for somebody who is closely related to him. Would Your Honor consider an amendment?

Senator TOLENTINO. Maybe, we can include that because that is actually... I would consider it reprehensible.

Senator PAREDES. That actually may happen. It does happen.

Senator TOLENTINO. Yes, I know. I would be very happy to hear the amendment as proposed by the gentleman.

Senator PAREDES. Thank you.

Senator FERNANDEZ. Mr. President, will the distinguished sponsor yield to some questions?

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

Senator TOLENTINO. Very gladly.

Senator FERNANDEZ. I recall very well that one of the fundamental reasons why the President vetoed the anti-graft bill that we passed in the last session was the fact that under that bill a President can be subjected to civil and criminal prosecution the moment he ceases to be President, and I understand Your Honor in drafting this new bill did not seek or concede to that idea of the President. Is that correct, Your Honor?

Senator TOLENTINO. That is correct, Your Honor.

Senator FERNANDEZ. Now, my question is: May we know whether the Nacionalista senators have received any assurance from Malacañan that the moment we pass this bill the President will not veto it?

Senator TOLENTINO. There is no such assurance, Your Honor, because we do not even know in what form the bill will finally come out from Congress. But I, as the author of the bill, have tried to accommodate the objections of the President which I believe were only based on an erroneous interpretation, so we clarified the provisions objected to.

With respect to this point of immunity of the President from judicial processes even after he has ceased to hold office, I do not think — personally it is my belief — that the President would veto this bill just because that ground of his veto has not been met.

Senator FERNANDEZ. May we know the reason for Your Honor's conclusion?

Senator TOLENTINO. My reason is: I do not think the President really feels very strongly about this provision, because although this is not official, since Your Honor asks for the basis of my opinion, I would say this: that in a conversation with the President when I took up his ground for the veto and I explained my position that we cannot include that perpetual immunity because I believe that is not justified by the Constitution — well, he said: "I did not say definitely that the

President should be immune after he ceases to hold office." He said also: "I said only that it is doubtful."

So, with that expression, I had the feeling that even if we did not touch on the immunity of the President, he would not veto the bill just on that ground. I think he was referring to a portion of his veto when he said — I quote from his veto:

"But if no impeachment proceedings were instituted during his incumbency and no finding of guilt was ever made against him, it is doubtful if he can be proceeded against subsequently for acts done during his term."

I think he was referring to that. He said it was doubtful. So from that expression of the President in our conference, I had the belief that he would not veto the bill only on this score.

Senator FERNANDEZ. I have here a copy of his veto message on this point. I read the following:

"It is a well-settled principle of political law that the head of the State is immune from court processes during his term. This immunity he carries with him even after the expiration of his term unless in an impeachment proceedings instituted during his incumbency, he is found guilty and convicted."

Senator TOLENTINO. Yes, I read that portion of the same paragraph.

Senator FERNANDEZ. But in this portion the President seems to be in the belief that even after his term of office he is still immune.

Senator TOLENTINO. Yes, I realize that, Your Honor. That is why judging from the veto, he was quite positive. But I was referring to a conversation which I had with him later after the veto and before this bill was actually drafted and I had the impression that he was not very strong on this point, because he referred to a portion of the veto message when he said: "It is only doubtful." Having referred to the portion instead of a

definite or categorical portion, which you have read, Your Honor, I feel that he would not veto the bill if this provision were omitted.

Senator FERNANDEZ. If the view of the President is that a President carries the immunity even after the expiration of the term of office, then, perhaps, he should have no more objection if we do not provide for that immunity in this bill because he believes that to be constitutional.

Senator TOLENTINO. Yes. As I stated during my sponsorship, if the President really believes that he is still immune, then that is a constitutional principle and it is above legislation. If anybody tries to prosecute him later, he can raise the constitutional objection. And there is the separability clause. If it is declared that the provision is unconstitutional with respect to him, well, at least it will remain with respect to others.

Senator FERNANDEZ. Of course, I gather that Your Honor is of the opinion that the moment the President ceases to be President, he no longer carries the immunity.

Senator TOLENTINO. I am of that belief, Your Honor.

Senator FERNANDEZ. I agree with Your Honor that if the President ceases to be President, he is no longer immune. Let us assume that the Lower House would incorporate in their anti-graft bill a provision making the President immune from court processes, from prosecution, even after he ceases to be President. Does Your Honor believe that we in Congress can give that immunity from court processes, from prosecution, to be President? Would not that provision be unconstitutional?

Senator TOLENTINO. Well, as to whether it will be unconstitutional — in substance, I mean — I have my doubts, because we may extend the immunity by legislation. What we cannot do is to deprive him of an immunity that exists. But the immunity that he has, we can extend by legislation. As I think Your Honor will realize, there has been impliedly an extension of immunity of

members of Congress from arrest. Because while actually in the interpretation of the Constitution, members of Congress are immune from arrest practically only on civil contempts, yet under the Revised Penal Code a penalty is imposed for arresting members of Congress during sessions, unless the crime committed is of a degree which is not just civil contempt. So, there is an extension there impliedly of immunity. We can do it by legislation, but as a policy I would not favor it. And if the Lower House would have a provision like that in the bill, perhaps the objection of unconstitutionality will rest on the fact that it would constitute a rider actually.

Senator FERNANDEZ. I doubt whether we can legally do that — extend immunity to the President when his term of office is over. But in the case of members of Congress, there is a good reason for the provision of the Revised Penal Code, and that is in order that members of Congress may not be deprived of the opportunity to perform their duties while Congress is in session. Now, Your Honor speaks of a rider. I agree with Your Honor that there was no rider in the bill that was vetoed, and it seems to me that there is neither any rider in the present bill. But Your Honor being the author, may we know if there is any rider in this bill, any provision that Your Honor considers a rider?

Senator TOLENTINO. There is no rider at all in this bill, Your Honor. The whole trouble is that some people think it is. There is a particular provision. They just call it a rider without actually considering the legal concept of a rider. A rider is a provision inserted in the bill that has nothing to do with the subject matter of the bill. And there is no provision in this bill that could qualify as a rider.

Senator FERNANDEZ. May I now refer Your Honor to Section 2 of the bill, and specifically to paragraph (b) which defines the phrase "public officer". "Public officer" includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or

exempt service receiving compensation from the Government as defined in the preceding subparagraph." I would like to call attention to the phrase "receiving compensation". My question is: Is a one peso a year official or employee in any branch of the Government, a public officer under this paragraph?

Senator TOLENTINO. Well, that would be very doubtful under the definition that we have here. That is why I expressed willingness to incorporate a proposed amendment by the distinguished gentleman from Albay which would cover even those who may have accepted office in the Government and are not receiving actually compensation, but just rendering service. If they are rendering service in the Government, the gentleman from Albay has a proposal on that matter, to make it clear that it would include what Your Honor calls one peso a year officials or employees.

Senator FERNANDEZ. As this paragraph is presently worded, would an MVO agent who has received his badge and appointment without compensation be included?

Senator TOLENTINO. It is doubtful, Your Honor. That is why we would like to clarify that as suggested by the gentleman from Albay.

Senator FERNANDEZ. A motorcycle cop or policeman appointed as special policeman with a motorcycle bought by him, but without receiving compensation. I think that has been done in some municipalities. Would he be included in that paragraph as it is?

Senator TOLENTINO. Without the qualification that he is receiving compensation, he might not be included.

Senator FERNANDEZ. Would Your Honor then be agreeable to accepting later on an amendment by eliminating the phrase "receiving compensation from the Government as defined in the preceding subparagraph."

Senator TOLENTINO. Well, there is already an

amendment that is going to be introduced, Your Honor.

Senator FERNANDEZ. May I now refer Your Honor to paragraph (c) which reads: "'Receiving any gift' includes the act of accepting directly or indirectly a gift from a person other than a member of the public officer's immediate family, in behalf of himself or of any member of his family or relative within the fourth civil degree, either by consanguinity or affinity, even on the occasion of a family celebration or national festivity like Christmas, if the value of the gift is manifestly excessive." May we know from Your Honor just what is meant by the phrase "immediate family" in this paragraph?

Senator TOLENTINO. Well, the term "immediate family" usually includes the household, the members of the family within the household. In other words, even if one is a son, only a degree away from the father, if he has already his own household, he is no longer a member of the immediate family. But even if a son or a daughter is already married, but they are still living within the household as a part of that household, they would still be within the immediate family.

Senator FERNANDEZ. Now, how about the phrase "relative within the fourth civil degree, etc."? Does this include illegitimate relatives, say, a natural son, an acknowledged natural child?

Senator TOLENTINO. Well, in the interpretation of the term "relatives", this is usually limited to legitimate relatives. If illegitimate relatives are intended in the law, they are usually expressly referred to. So, with the use of the term here, "relative within the fourth civil degree", this is limited to legitimate relatives.

Senator FERNANDEZ. May we know from Your Honor why we should not include illegitimate relatives here, specially an acknowledged natural child, for example?

Senator TOLENTINO. Well, there is of course no valid or strong reason for it, considering that

a benefit may be acquired even for an illegitimate relative. But I do not know how advisable it will be to make that as an officially recognized fact. If Your Honor has some proposal, we may consider it in the period of amendments.

Senator FERNANDEZ. May I now go to Section 3, paragraph (b). The first paragraph reads:

"In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

"x x x

"(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law, where such intervention constitutes misuse or abuse of his power and authority."

I was thinking of presenting an amendment to eliminate the phrase "where such intervention constitutes misuse or abuse of his power and authority."

Senator TOLENTINO. I will accept the amendment, Your Honor. In fact, there has been a suggestion submitted to me, and I have agreed to that suggestion to eliminate the phrase "where such intervention constitutes misuse or abuse of his power and authority."

Senator FERNANDEZ. I refer to paragraph (c): "Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any government permit or license, in consideration for the help given or to be given." My question is: how about political contributions? Here is a government official who asks contributions from people here in the Philippines and/or from people

in Japan for the purpose of turning over the same for purposes of a political campaign. He asks contributions from a person who has a pending transaction with the Government, say, a pending application for dollar allocation in the Central Bank. He knows this person and tells him: "Give us contribution and we will help you get your dollar allocation." And as I said, the money is supposed to be given to a political party. My first question is: suppose the money is not given to the treasurer of the party or to any person of the party, will he come under this paragraph?

Senator TOLENTINO. I think so. Under the fact stated by Your Honor, I think he comes under paragraph (c).

Senator FERNANDEZ. My other question is: suppose he actually gives the money to the treasurer of the party, and as I said he got the money from his contributors, and he tells his contributors: "Give us contributions and we will help you secure dollar allocation or reparations from the reparations commission." The money does not go to him, it is not for his personal benefit, but it went to the party.

Senator TOLENTINO. The provision requires that it should be for himself, and if it did not go to him, or the benefit was not received by him, I do not think that situation is covered by paragraph (c) that you have quoted, Your Honor.

Senator FERNANDEZ. Does not Your Honor believe that it is immoral for a person to ask contributions from another telling him or convincing him that he would work for the approval of, say, his dollar allocation even if the money is afterwards turned over by the person to a political party? There is some sort of coercion.

Senator TOLENTINO. There is some sort of impropriety and I agree with Your Honor.

Senator FERNANDEZ. Would Your Honor agree to an amendment so that the benefit will be not only for himself, the person asking for the contributions, but for another? That will include

the political party. So we can save the businessmen and other Filipinos from being coerced, so to speak, into giving contributions to political parties.

Senator TOLENTINO. Well, Your Honor, I am asking this just for clarification. Under our Electoral Law — I do not recall the provision now very well, Your Honor has been in the election more recently than I — is there any prohibition about giving contributions to political parties?

Senator FERNANDEZ. There is no prohibition.

Senator TOLENTINO. Only it is declared or reported.

Senator FERNANDEZ. Yes.

Senator TOLENTINO. Would not Your Honor think that his amendment would modify the provisions of the Electoral Law?

Senator FERNANDEZ. I believe the provisions of the Election Law pre-suppose a voluntary contribution. But here is a contribution exacted for the purpose of getting a license or permit from the Government.

Senator TOLENTINO. I will agree with Your Honor as long as it does not modify the provisions in the Election Law.

Senator FERNANDEZ. For the benefit of himself or for the benefit of another.

Senator TOLENTINO. The amendment in that case will not be in paragraph (c). It will have to be in the definition of terms. Paragraph (c) which Your Honor has just read a while ago refers to immediate family. I think it has to be inserted in some other place.

Senator FERNANDEZ. I believe paragraph (c) would be amended so that the term "material benefit for himself" should be modified to include "or for another".

Senator TOLENTINO. We will consider that when the specific amendment is proposed, Your Honor, but in principle I think it is all right.

Senator FERNANDEZ. Although I believe that this is already clear enough, but just to make it really certain, may we know from Your Honor whether the word "person" on line 23 — I am still in paragraph (c); that is the one from whom the gift is requested — includes juridical partnership or corporation?

Senator TOLENTINO. There is a proposed amendment by the gentleman from Albay to define the word "person" as including natural and juridical persons, unless the context otherwise indicates.

Senator FERNANDEZ. May I now refer to paragraph (e): "Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits in the discharge of his official administrative and judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence." I refer to the use of the word "and" on line 31. Should it not be "or"?

Senator TOLENTINO. I think so, Your Honor.

Senator FERNANDEZ. It should be "or". May I now refer Your Honor to paragraph (f) which reads: "Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage." Would Your Honor not favorably entertain the idea of an amendment which will eliminate the phrase "for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage"? Why would not the public official be penalized if he neglects or refuses to act within a reasonable time on a matter pending before him after due demand or request?

Senator TOLENTINO. I agree with Your Honor there, but this is a case of graft and corrupt practice, not mere negligence or inefficiency in office. We are not penalizing here mere negli-

gence in office. While we are trying to penalize, the main idea of the bill is graft and corrupt practices. That is why we added these qualifications and some qualifications are going to be added also by some amendments suggested by the distinguished gentleman from Albay. Well, the idea of graft is the one emphasized.

Senator FERNANDEZ. I remember very well a provision in the Civil Code that a person may claim damage against a public officer who refused or fails to comply with his duty. Of course, that is a civil remedy. But my point is, it might be difficult for anyone to prove in court later on that the purpose of a public official in freezing, so to speak, action on a matter before him is for him to receive some pecuniary benefit or advantage. May we not presume that his negligence or refusal to take action within a reasonable time on a matter pending before him shows he has ulterior motive of getting something?

Senator TOLENTINO. We may suspect that there is some ulterior motive in neglecting or refusing to take action within a reasonable time. But the fact that there is only negligence or delay in the case does not seem so serious as to warrant it to be taken into account as a case of graft punishable with a maximum penalty of ten years without incorporating those qualifying phrases.

Senator FERNANDEZ. May I now refer to paragraph (k) which reads as follows:

"(k) Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position, to unauthorized persons, or releasing such information in advance of its authorized release date."

The second White Paper to my mind contains confidential matters because it is from the President of the Party to the Chief Executive. But, be it as it may, let us assume it to be a document of confidential character, and assuming that it has been released through the newspapers and not on the floor of the Senate, would the one releasing it be punished under paragraph (k)?

Senator TOLENTINO. If by White Paper Your Honor is referring to what Your Honor read here, I don't think it would fall under this paragraph (k). There is no valuable information that is contained in that paper that Your Honor read.

Senator FERNANDEZ. May we know from Your Honor what is Your Honor's definition of the words "valuable information" in paragraph (k)?

Senator TOLENTINO. This means it is an information that gives rise to some pecuniary interest or benefit out of a transaction with the Government. The paper that Your Honor read is more or less of a political character. I don't think it would fall within the intention of the bill because when you consider one paragraph you should consider the entire section. That was the mistake of the President. When he vetoed the bill, he considered isolated paragraphs of the bill. We must consider the whole legislation itself. I think every paragraph should be construed in the light of the intention of the entire measure.

Senator FERNANDEZ. I am inclined to agree with Your Honor, although I have also my doubt before because of the use of the phrase "valuable information". I still believe the information in that second White Paper is very valuable. How about the contents of Circulars 105 and 106 of the Central Bank which contain the decontrol plan of the Central Bank? Your Honor will recall that sometime ago I filed a charge that there has been leakage of that plan. In other words, the plan was released to certain people before the same was officially proclaimed. Would that fall under paragraph (k)?

Senator TOLENTINO. I think so, Your Honor.

Senator FERNANDEZ. May we now refer to Section 4, paragraph (a) which reads:

(a) It shall be unlawful for any person to directly or indirectly request or receive any present, gift or material or pecuniary advantage from any other person having some business,

transaction, application, request, or contract with the Government, IN CONSIDERATION OR by reason of any family or close personal relations he may have with any public official."

May I again find out from Your Honor whether the word "family" includes illegitimate members of the family? For example, here is an acknowledged natural son who goes around and asks for money from one who has a pending business with the Government, telling him that he is the natural son of the person who shall act on the matter. Will he be covered by this?

Senator TOLENTINO. I think this provision will cover such a situation as Your Honor stated because usually it is the term "relatives" only that is generally interpreted to be limited to legitimate relation. But considering the intention of this particular section where it is the closeness rather than is considered, the term "family" might include even illegitimate relations.

Senator FERNANDEZ. So, even if he is not included, I think he can be included under the phrase "close personal relations."

Senator TOLENTINO. Yes, considering the purpose of that provision.

Senator FERNANDEZ. Your Honor has stated before that under the phrase "close personal relation" are included girl friends of public officials. Is that right?

Senator TOLENTINO. Yes, I have stated that before.

Senator FERNANDEZ. But how about friends who are girls but not necessarily a girl friend?

Senator TOLENTINO. That will depend upon the closeness of the relationship, confidential relationship and the intimacy of the relationship. She may not be a girl friend but is sufficiently close to fall under the scope of the provision.

Senator FERNANDEZ. So, may I now ask the question, what will be the criteria or criterion in the definition of the phrase "close personal relation"?

Senator TOLENTINO. There must be some kind of intimacy in the relationship and such closeness as to have some access between the two that she can go to his house, talk to him and visit him anytime, because the very nature of the provision is that a person gives some consideration to the party, to the accused — let us call him the accused — because perhaps of the thought of what the accused can do to influence the public official. That is the idea. So that will depend upon the nature of the intimacy and access between the public official and the accused.

Senator FERNANDEZ. Would it not be pertinent and material on the part of the court later on to consider the influence that the person asking for the gift or the "pabagsak" may have over the public official to act on the matter?

Senator TOLENTINO. That could be a circumstance that could come under one situation.

Senator FERNANDEZ. I think that is clear now. Here is a question that is intriguing me. Let us suppose here is a person who approaches a merchant, a businessman, and tells him "I am very close to a member of the Monetary Board. Give me ₱10,000.00 and I think by talking to some of them your application for a dollar allocation can be approved." But that is only a pretense. In other words, actually he does not have any close relation with the public official but he only pretended. Can he fall under paragraph (a) of Section 4?

Senator TOLENTINO. He may be prosecuted for estafa.

Senator FERNANDEZ. But suppose his position is in the border line of being close and just pretending because he would just say, "Oh, I am really close." But in the mind of the public official he is not close to me. In the mind of the private person he is close to the official. In other words, the public official is called as a witness and he stated definitely that I am not close to him and he is not close to me. On the other hand, when the accused testified he said: "I am really close to him."

Senator TOLENTINO. Well, if it is from the point of view of the accused that he has such close relationship with the public official, I suppose, he should be penalized under this provision.

Senator FERNANDEZ. Suppose somebody else testified for the prosecution to the effect that the accused has close personal relationship with the public official?

Senator TOLENTINO. That is a matter of evidence for the court to determine.

Senator FERNANDEZ. May I now refer to Section 5, the relatives mentioned there and the legitimate relatives?

Senator TOLENTINO. Yes, Your Honor.

Senator FERNANDEZ. In Section 5, and I refer to lines 1 and 2 on page 5, — I am not going to read them so as to cut short my interpellations — I see the following: "NOT TO ANY APPLICATION THE APPROVAL OF WHICH DEPENDS UPON COMPLIANCE WITH REQUISITES PROVIDED BY LAW."

I was thinking of presenting an amendment to this bill, Your Honor, because although the application before it can be approved must comply with the requisites of the law, judgment would still be pending on the part of the relative of the public official here mentioned, not necessarily for the person to act on the application to disregard any requisites but to accelerate action.

So that if a relative of anyone of the officials mentioned in this Section 5 within the third civil degree goes to a businessman and tells him: "I can accelerate the approval of your application for a concession; I can accelerate the approval of your application for a loan from the GSIS or from the Development Bank of the Philippines or the PNB;" or "I can accelerate the approval of your application for dollar allocation," and because of this he receives money from the businessman, I believe he should be penalized.

But with the addition of the statement I have

referred to: "NOT TO ANY APPLICATION THE APPROVAL OF WHICH DEPENDS UPON COMPLIANCE WITH REQUISITES PROVIDED BY LAW." I believe he can be acquitted. He may not even be prosecuted. Does not Your Honor believe that this should be precisely included?

Senator TOLENTINO. Your Honor, I would like to inform you that there is a suggested amendment to these lines that you have read. In the first place, to limit this exception which you have read to applications filed by the relative himself for himself, so as to completely eliminate his intervention for another, so that his intervention for another would still be covered by the main provision.

Senator FERNANDEZ. I am glad to hear this. But I would like not only to thank you but to congratulate you again for your very able sponsorship of this bill and I hope that when we approve this, this will be approved by the Lower House.

Senator PUYAT. Mr. President, will the gentleman yield to some questions?

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

Senator TOLENTINO. Gladly, Your Honor.

Senator PUYAT. I would like to ask questions so that if this bill becomes a law I will know just how to undertake my work in the Senate. And if I find that as a consequence of the approval of this bill into law I find my position in the Senate untenable, I might have to resign from the Senate.

Is there any provision in this bill that would affect me if I as Chairman of the Committee on Finance would propose a bill, for example, exempting a certain industry from taxes or from tariff which would benefit an industry where I have some pecuniary interests?

Senator TOLENTINO. If by "industry" you refer to the "industry" as a whole, I don't think you would come in.

Senator PUYAT. In the particular example of

milling fees which is now collected in the rice industry. It is a fee that has been the subject of universal criticism. The rice industry has been after the abolition of this fee for a long time now. I am personally convinced that it is a bad fee. I recommend the elimination of this fee and because I have a small rice farm and a small mill, that would affect me, I want to know if by proposing a bill of this kind I would come under the provisions of this bill.

Senator TOLENTINO. I don't think Your Honor would come under any provision of this bill, because that is a legislation that is general in scope. It just happens that you have a business that comes under this general legislation.

Senator PUYAT. I will now cite another example. We have a bill pending in the Senate, the bill filed by the distinguished gentleman from Quezon, nationalizing banks. Suppose this bill is approved into law and I supported it because I feel that along with rice and corn, one of the fields of investments that should be in the hands of the Filipinos if we want really to control the economy of this country is the field of finance. I gave positive support to this bill. Would I be violating any provision of this bill if I at present have some interests in any local banks which would be benefited by the approval of that bill?

Senator TOLENTINO. I do not recall... I cannot think of any provision right now which would cover such case, Your Honor. Because Your Honor mentioned a bank and all we do here is enact a general legislation nationalizing banks. I do not see how your continuing to have interest in the bank would be contrary to the provisions of the bill which would be considered as violation of the bill.

Senator PUYAT. Suppose I organize a bank after the approval of this bill because, as a consequence of the approval of that bill, it becomes incumbent upon the Filipinos to organize financial institutions to take over from the aliens. Would I come under the provisions of this bill? This is the

same question asked by Senator Sabido. I not only voted for the bill but I gave positive support to the bill. I argued here and I have importance to the bill.

Senator TOLENTINO. I was thinking whether it could be construed as a special privilege. Because if we simply nationalize, unless, by limiting it to Filipinos, we can consider it as a special privilege. I don't think that is the intention of the provision.

Senator PUYAT. Suppose in the period of general debates I should announce some amendments of a fundamental character to the extent where the gentleman from Quezon may agree to make me a co-author of the bill. So I become now a co-author of the bill. Would I be subject to the provision of this bill?

Senator TOLENTINO. As an author, I think so.

Senator PUYAT. In that case, I cannot even take the initiative to sponsor what in my conscience I know is a piece of legislation that is badly needed by the economy.

Senator TOLENTINO. You can do, Your Honor.

Senator PUYAT. But I cannot engage.

Senator TOLENTINO. That is what you cannot do.

Senator PUYAT. Therefore, I am inhibited from entering into a business because I sponsored what I think would be a beneficial bill for the country.

Senator TOLENTINO. No, no. That Your Honor is the author, no. This is limited to specific business enterprises, not to industries as a whole. There must be some kind or idea of special grant involved. It is more than taking advantage.

Senator PUYAT. So that if the benefit is to the entire industry and the benefit to be derived by my having pecuniary interest in a bank is only incidental to that general interest, is it Your Honor's

answer that I would not come under the provisions of the bill?

Senator TOLENTINO. That is not covered.

Senator PUYAT. I am not covered?

Senator TOLENTINO. Yes, Your Honor, you are not covered.

Senator PUYAT. Even if I were the author?

Senator TOLENTINO. Because that started with the interpellations of the distinguished gentleman from Quezon on Senate Bill No. 293.

Senator PUYAT. Even if I were the author, I would not come under the provisions of the bill.

Senator TOLENTINO. Your Honor is amply protected. I mean, in such a situation.

Senator PUYAT. No. It is not my personal position I am trying to protect. I want to clarify this, Mr. President and Mr. Sponsor.

Senator TOLENTINO. Because we do not want Your Honor to resign from the Senate.

Senator PUYAT. I am asking these questions objectively so that all of us in the Senate would know what our position would be as a result of the approval of this bill into law.

Senator TOLENTINO. Well, pardon me. When I said that Your Honor is amply protected, it was because Your Honor started by saying that you might have to resign from the Senate.

Senator PUYAT. Because if Your Honor's answers were otherwise and I would find my position here untenable, then the only recourse would be for me to resign from the Senate, unless I would want to be a public official who would willingly and intentionally violate the provisions of this bill if it becomes a law. Well, I am glad and satisfied with the answers. Thank you, Mr. President.

Senator TOLENTINO. Mr. President, I now ask that we pass to the period of amendments.

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

Senator SABIDO. Mr. President.

The PRESIDENT. Gentleman from Albay.

Senator SABIDO. To clarify all doubts concerning the scope of Section 6, may I suggest that the distinguished author of the bill, in addition to the amendments that I have suggested, consider also at an opportune time the following amendment: "SATISFACTORY PROOF, HOWEVER, THAT THE PERSONAL PECUNIARY INTEREST HAS BEEN ACQUIRED UPON ADEQUATE PAYMENT OF ITS MONEY VALUE AND THAT THE SPECIFIC BUSINESS ENTERPRISE HAS FOR ONE OF ITS PRIMARY PURPOSES THE IMPLEMENTATION OF A DECLARED NATIONAL ECONOMY POLICY AND IT WAS EVIDENTLY ESTABLISHED TO SUBSERVE PUBLIC INTEREST WOULD CONSTITUTE A VALID DEFENSE."

Senator TOLENTINO. Mr. President, offhand I cannot make a statement on the proposed amendment. I think we better sit down and go over it. If we can just proceed now with other amendments and leave that for later on.

Mr. President, may I suggest that since I have accepted some amendments which were handed over to me by members of the Chamber, that I go over them first and, later on, if there are other suggested amendments, we can take them up.

The PRESIDENT. The gentleman may proceed with the Committee amendments.

COMMITTEE AMENDMENTS

Senator TOLENTINO. On page 1, line 15, an amendment is suggested by the distinguished gentleman from Albay, Senator Sabido. Between the words "from" and "the", insert the words "OR RENDERING SERVICE IN".

Senator MARCOS. Mr. President, how does that read now?

Senator TOLENTINO. So, this portion will read "receiving compensation from or rendering service in the Government as defined in the pre-

ceding paragraph." The explanation given by the gentleman from Albay in making this suggestion is that this is intended to cover those who are rendering services without competition.

Senator TAÑADA. Mr. President.

The PRESIDENT. Gentleman from Quezon.

Senator TAÑADA. In connection with that suggested amendment, Mr. President, I would think that the amendment could be improved upon by just deleting from lines 14 to 16 the words "receiving etc." up to the period (.), because, Your Honor, a public officer is supposed to be rendering service, whether he is receiving compensation or not. So that we just delete the words "receiving compensation from the Government as defined in the preceding subparagraph".

The PRESIDENT. What does the sponsor say?

Senator TOLENTINO. Your Honor, there is some importance in the phrase "the Government as defined in the preceding paragraph". So, if a change is to be made, we have to retain that portion, because the term "Government" defined in the preceding paragraph has been

Senator TAÑADA. Well, just take away the words "receiving compensation from" and insert, in lieu thereof, the word "of".

Senator TOLENTINO. Maybe, it can be made to read this way:

"(b) 'Public officer' includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exempt service of the Government as defined in the preceding subparagraph."

Would that express the idea of the gentleman from Quezon? That would eliminate the phrase "receiving compensation from."

Senator TAÑADA. That would be all right.

Senator TOLENTINO. I so propose, Mr. President.

The PRESIDENT. The amendment is approved if there is no objection. (*There was none.*)

Senator TOLENTINO. On page 2, line 3, between the words "is" and "manifest", insert the words "UNDER THE CIRCUMSTANCES". This was also suggested by the gentleman from Albay.

Senator MARCOS. Mr. President, for clarification.

The PRESIDENT. Gentleman from Ilocos Norte.

Senator MARCOS. I merely want to know first how this portion will read.

Senator TOLENTINO. It will now read "if the value of the gift is under the circumstances manifestly excessive."

Senator MARCOS. I seek a clarification of the amendment. What does this mean? Does it alter the purpose, the aim?

Senator TOLENTINO. It does not alter, Your Honor, only it was indicated that what is excessive or manifestly excessive is relative. So, it must be in relation to the circumstances. This is a clarification only.

Senator MARCOS. So that what is manifestly excessive with respect to one individual may not be so with respect to another.

Senator TOLENTINO. Yes, Your Honor.

Senator MARCOS. Well, suppose let us take the example of a clerk in the Bureau of Lands. If he is given ₱100, would that be manifestly excessive if he receives a salary of ₱120 monthly?

Senator TOLENTINO. This is a gift during family celebrations or national festivities like Christmas, and a gift is given, a one hundred-peso gift coming from . . .

Senator MARCOS. Let us say a watch.

Senator TOLENTINO. Well, we have to consider, I think, not only the situation of the one who receives but also the one who is giving.

Senator MARCOS. A one hundred-peso watch. That is why I ask demonstration by example.

Senator TOLENTINO. I would consider that as a manifestly excessive gift, ₱100. I personally.

Senator MARCOS. Would that be excessive with respect to a senator?

Senator TOLENTINO. Maybe not.

Senator TOLENTINO. The circumstances of person and of social position have to be taken into account in determining whether the gift is actually excessive and also the fact of whether it might influence action one way or another on the part of a public official.

Senator MARCOS. So, there may be differences as to what is manifestly excessive among senators. With respect to Liberals — I beg your pardon, I withdraw the term "Liberals" — with respect to me, a gift of P100 would be excessive. It is. But with respect to some other members. . . .

Senator TOLENTINO. That would be a matter of appreciation, Your Honor, and the idea of the simple amendment is to make it clear that the circumstances indicated will have to be considered. There is just no definite amount.

Senator MARCOS. All kinds of circumstances.

Senator PADILLA. Mr. President, will the gentleman yield.

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

Senator TOLENTINO. Gladly.

Senator PADILLA. With the indulgence of the gentleman, regarding this phrase on the same page 2, line 3, "if the value of the gift is manifestly excessive" and the proposed amendment is to insert the phrase "under the circumstances", now, Your Honor, don't you believe that this phrase would be superfluous because I was reminded of, say, a provision of Civil Code, for example, where gifts between husband and wife, although as a general rule prohibited if they constitute transfer of property, but moderate gifts during family festivals is allowed as exemption, and that has been interpreted by the Supreme Court that what is moderate or what is not would depend upon the financial and other circumstances of the family. Now, don't you believe that if we say if the

value of the gift is manifestly excessive that the determination of whether it is excessive or manifestly excessive will necessarily consider all the circumstances?

Senator TOLENTINO. That is what we are including, Your Honor.

Senator PADILLA. So that the phrase would be superfluous.

Senator TOLENTINO. Not necessarily superfluous. As Your Honor said in the case of the Civil Code, there is already a judicial interpretation that all circumstances would have to be considered. Now, we are just inserting here the same idea, not really superfluous. It just clarifies that we use the same standard that the Supreme Court has laid down in the case of husband and wife.

Senator PADILLA. But the provision of the Civil Code from the Spanish text adopted here merely states moderate gift.

Senator TOLENTINO. Your Honor, it will not really add anything new. If that is the way Your Honor looks at it, then it is simple and as I said it clarifies. It does not add anything new.

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

Senator TOLENTINO. I will now proceed with the other amendments. On the same page 2, between lines 4 and 5 on the same page 2, insert the following new paragraph: "(d) 'Person' includes natural or juridical persons, unless the context indicate otherwise."

The PRESIDENT. The amendment is approved, if there is no objection. (*There was none.*)

Senator TOLENTINO. Same page, line 18, after the word "law" change the comma (,) to a period (.) and delete the rest of the paragraph until line 20

The PRESIDENT. The amendment is approved if there is no objection. (*There was none.*)

Senator TOLENTINO. On the same page, line 28 delete the period (.) after the word "him" and add the following: "the decision on which depends upon him."

The PRESIDENT. The amendment is approved, if there is no objection. (*There was none.*)

Senator TOLENTINO. On line 31, delete the word "and" at the end of the line and in lieu thereof insert "or".

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

Senator TOLENTINO. On page 3, line 7, change the period to a comma (,) and add the following: "or for the purpose of favoring his own interest or giving undue advantage to or discriminating against any other interested party."

The PRESIDENT. The amendment is approved, if there is no objection. (*There was none.*)

Senator TOLENTINO. On line 13, same page, between the words "part" and "in" insert the words "or may intervene or take part."

The PRESIDENT. Amendment approved, if there is no objection. (*There was none.*)

Senator TOLENTINO. On line 15, same page, after the comma after the word "gain" insert the following: "or having a material interest".

The PRESIDENT. The amendment is approved, if there is no objection. (*There was none.*)

Senator TOLENTINO. On line 21, same page, place a comma (,) after "inequitable" and after the comma insert the word "discriminatory".

The PRESIDENT. The amendment is approved if there is no objection. (*There was none.*)

Senator TOLENTINO. On page 4, line 13, delete the period (.) at the end of the line and add the following words: "which he takes advantage of for the above purposes. The words 'close personal relations' shall include close personal friendship, social and fraternal connections, and professional employment, all giving rise to intimacy which assures free access to such public official."

The PRESIDENT. The amendment is approved if there is no objection. (*There was none.*)

Senator TOLENTINO. On page 5, line 1, after the word "application" insert the words "filed by him"; on line 2, between the words "which" and "depends" insert "is not discretionary on the part of the official or officials concerned but" and on line 3 between the word "Law" and "nor", insert "or rules or regulations issued pursuant to law", and at the end of that line, delete the period (.) and add the words "or in the exercise of a profession", so that the whole lines from lines 1 to 3 would read as follows: "Nor to any application filed by him the approval of which is not discretionary on the part of the official or officials concerned but depends upon compliance with requisites provided by law, or rules or regulations issued pursuant to law, nor to any act lawfully performed in an official capacity or in the exercise of a profession."

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

Senator TOLENTINO. On line 8, same page, delete the word "authorized" and insert in lieu thereof the word "authored".

The PRESIDENT. The amendment is approved if there is no objection. (*There was none.*)

Senator TOLENTINO. Then from lines 10 to 14, same page, we will change the second paragraph to read as follows: "The provision of this section shall apply to any other public officer who recommended the initiation in Congress of, the enactment or adoption of any law or resolution, and who acquires or receives any such interest during his incumbency."

The PRESIDENT. The amendment is approved if there is no objection. (*There was none.*)

Senator TOLENTINO. On page 7, line 14, between the words "the" and "court", insert the word "proper".

The PRESIDENT. The amendment is approved if there is no objection. (*There was none.*)

Senator TOLENTINO. On the same page, line 25, between the words "prosecution" and "under", insert the words "under a valid information."



The PRESIDENT. The amendment is approved if there is no objection. (*There was none.*)

Senator TOLENTINO. There are all the amendments, Mr. President, that we are introducing, and these amendments — I am sorry I forgot to mention specifically one — most of the amendments I have read were suggested by the distinguished gentleman from Albay, Senator Sabido, and by the distinguished gentleman from Manila and Albay, Senator Gonzalez.

Senator MARCOS. Mr. President, can we submit our individual amendments tomorrow because the amendment submitted by the Committee altered completely our study of the bill?

Senator TOLENTINO. It has eliminated some.

Senator MARCOS. It has eliminated some of our amendments and altered some of those that we would like to introduce. We would like to study them.

ROSALES MOTION

Senator ROSALES. Mr. President, before we postpone further consideration of this bill, we request that it be mimeographed with the amendments introduced by the gentleman from Manila, and that copies be distributed to the Senators so that it will be ready for further amendments,

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

SUSPENSION OF THE CONSIDERATION OF SENATE BILL NO. 571

Senator PRIMICIAS. Mr. President, I ask that we suspend consideration of this bill until tomorrow.

The PRESIDENT. If there is no objection, consideration of Senate Bill 571 is suspended until tomorrow. (*There was none.*)

SPECIAL ORDER

Senator PRIMICIAS. Mr. President, I ask that S. No. 574 be set for its consideration tomorrow.

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

ADJOURNMENT OF THE SESSION

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

The PRESIDENT. If there is no objection, the session is adjourned until tomorrow morning at ten o'clock. (*There was none.*)

It was 12:58 p.m.