

El SECRETARIO:

Del Senador Púyat (S. No. 475, 3.º C. R. F.), titulado:

An Act to amend section four of Commonwealth Act Numbered Three hundred forty-nine, entitled "An Act creating a standardizing meter laboratory to carry out the provisions of the Public Service Act on meter testing and providing funds therefor."

El PRESIDENTE. Al Comité de Comercio e Industria.

El SECRETARIO:

Del Senador Púyat (S. No. 476, 3.º C. R. F.), titulado:

An Act to amend section one of Commonwealth Act Numbered Six hundred forty-six, entitled "An Act providing for the establishment of cinchona plantations in public forest lands."

El PRESIDENTE. Al Comité de Agricultura y Recursos Naturales.

El SECRETARIO:

Del Senador Púyat (S. No. 477, 3.º C. R. F.), titulado:

An Act authorizing the President to modify the rates of import duty subject to certain limitations and restrictions.

El PRESIDENTE. Al Comité de Hacienda.

CONSIDERACIÓN DEL S. NO. 438

(Continuación)

Senator PRIMICIAS. Mr. President, I now ask that we resume consideration of Senate Bill No. 438.

The PRESIDENT. Resumption of the consideration of Senate Bill No. 438 is now in order.

Senator PRIMICIAS. Mr. President, the distinguished gentleman from Sámar, Senator Rosales, has registered a turn to speak against the bill. I ask that he now be recognized.

The PRESIDENT. The gentleman from Sámar has the floor.

DISCURSO DEL SEN. ROSALES EN CONTRA

Senator ROSALES. Mr. President, at the outset, I would like to request my distinguished colleagues who may wish to ask questions about my speech, to ask them after I have finished delivering my speech.

Mr. President and my distinguished colleagues in the Senate: During the last three weeks, whenever my humble name was mentioned in our metropolitan newspapers in connection with Senate Bill No. 438 now under consideration, it was oftentimes linked with the name of my brother, Archbishop Julio Rosales of Cebú, impliedly giving the impres-

sion that my stand on this measure is either dictated or influenced by my said brother. What is more unfortunate is that I even suspect that some of my worthy colleagues in this chamber entertain the same conviction. That is why there were moments when I was in a quandary whether to rise or not before you to define my stand on this important bill for fear that my views on the subject might not find receptive ears from prejudiced minds.

But as I calmly appraised the development of events from the time this bill was presented, judging from what I daily read in our newspapers, from what I hear from radio broadcasts, and from my observations of the behavior of the people that daily throng to this hall to witness both to our deliberations in the Senate and the hearings conducted by the committee on education, I noted with dismay that passions are running high and wild and it cannot now be denied that the solidarity of our people is seriously threatened. So after a matured deliberation, I have considered it my inescapable duty to take the floor today even if my only audience were the cold, unmovable and insensitive stonewalls of this hall, if only to make it appear in the records of this chamber that at this time of national stress I have not faltered in my duty as an elected representative of this Republic.

It is true that my brother, the Archbishop of Cebú, and I are in perfect accord in our stand on this measure. But when thousands, nay millions of people could agree on any vital question, is it strange that two brothers who sucked and were fed with milk coming from the same maternal breast; two brothers who in their tender years were left orphaned of paternal love and given to the care of a weak and destitute widowed mother with whom in countless nights in a small room in a nipa hut they mingled their sweat and tears together; and sometimes awakened in the middle of the night by the pangs of hunger or by the nightmare of the spectre of misery that haunted their future; I repeat, is it strange that these two brothers would have the same dreams, the same aspirations and the same ideals in life? Is it surprising that two brothers who in their younger days had been tutored by the same teachers, attended the same catholic school, that they would now worship and adore the same God and profess the same religion? Is it any wonder that these two brothers, though they have chosen different careers in life, would now hold the same opinion on this issue, continue to have the same ideals, ideals

brought about by their community of spirituality founded on the indestructible rock of a bitter past?

And so, as I proceed in my speech, I beg of the generosity of my colleagues in the Senate to at least concede that when I recited my oath of office as a humble member of this body and invoked the aid of Divine Providence to help me serve well this Republic and defend its Constitution, that I did so with all my heart and soul, with sincerity and good faith.

Mr. President, it is indeed very unfortunate that the real issues involved in this bill are not well understood by the general public. Passions have risen so high that we have a situation where many of the combatants do not even know what they are fighting for. So much so, that in the public hearings conducted by the Committee on Education of this body, the Chairman of that committee, the distinguished gentleman from Batangas, Sen. Laurel, had to state and re-state the true and actual issues and reminded almost all those who appeared before said committee to confine their statements to those issues.

In my humble opinion this confusion of issues is caused (1) by some anti-catholicism who, taking advantage of the rising nationalistic spirit of the people, have maliciously side-tracked the real issues to suit their ends; (2) by some passionate and partial newspapermen who have unfairly and subtly refused to present to the public our true position on this bill; (3) by communist-inclined Filipinos who believe that the easiest way to propagate communism in this country is to create confusion among our people; and (4) by self-proclaimed patriots who, without taking pains of studying the real nature of the controversy, using passion more than reason in their arguments have joined in the discussion of this bill.

And it is due to this confusion that some people came to call those who are opposed to Senate Bill No. 438 as anti-Rizal and anti-Filipino.

I believe that many of my colleagues in the Senate still remember of the front page caricature published in one of the issues of the Manila Chronicle, where my good friends Senators Cuenco and Rodrigo and I were depicted commanding an execution squad with Rizal hogtied in the act of being executed. Even Senator Laurel, scandalized by that ridiculous and highly unjust caricature, in his speech in the floor of the Senate called it unfair, if not cruel. As far as I am concerned, I took that caricature lightly and with humor, because after looking closely at the face of one of the executioners in that caricature labelled with the name

"Rosales", I discovered that it looked very much alike the face of one of the Members of the Manila Chronicle Staff.

Three weeks ago and before the presentation of this bill, we who are now opposed to its approval, were supposed to be good Filipinos and even good Rizalistas. But after our stand against this bill was known, overnight we became anti-Rizal and anti-Filipino. What have we done to deserve this disgraceful condemnation?

It is indeed excruciating that we be branded now anti-Filipino. Yet, only a few years ago, with thousands of other catholic Filipinos, we have chosen to gamble everything dear to us in the fight against Japanese invaders. There were trying times in the three years of arduous living in the mountains and the forest of Cebu that I would weaken and waiver in that crusade. Do you realize how a father would feel seeing his wife and children of tender age continuously exposed to the rigors of mountain life and eminent danger? Can you picture a father looking at his dear ones sleeping in the forest with only the open sky as their roof, uncertain if God would still give them life in the morrow? Or leaving your family on a mission with the thought that you may never see them again haunting you? But thank God during that time when our motherland laid prostrate like thousands of her children, I have chosen to take up arms and fight for her, refusing to yield even one bit, no matter what the cost may be.

And now because reason and conviction compel me to oppose this bill I am unpatriotic, anti-filipino.

Are we anti-Filipino and anti-Rizal simply because we invoke the Constitution of this Republic, which every citizen of this country is bound to defend and uphold; and assert that this bill violates the provision of that Constitution which guaranties freedom of worship and religion? Are we anti-Filipino and anti-Rizal because we want to prevent confusion, dissension and division of our people which will result by the approval of this bill? Would you call the Catholic Church anti-Rizal and anti-Filipino merely because in its paternal solicitude to look after the spiritual welfare of its flocks, it opposes the approval of this piece of legislation?

How can you call the Catholic Church anti-Filipino, when for several years now, it has enjoined all the priests in this country to say the following prayer at the benediction of the Holy Sacrament: "O Jesus, Prince of Peace, grant peace in the Philippines. Remove from us all the injustices and misery, so that Thy peace, the fruit of justice, may unite Thy people in one mind and one heart?"

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How can the Catholic Church be anti-Filipino when for many years now it has exhorted all catholics to daily pray the holy rosary in the temples, in the streets, in their homes, and over the radio, so that peace and security may reign in this fair land?

It is unthinkable that in a Christian nation as ours defense of a right to your faith which is an essence in a democracy can be considered un-Filipino, nay even traitorous. And who are these people who now brand us anti-Filipino and anti-Rizal? Before the presentation of this bill in the Senate, what have they done to honor and perpetuate the memory of our national hero? I will give you one type of this group, by introducing to you one who appeared in one of the public hearings of the committee on education. He came to the committee with a disguised name. He was loud in his protestations of being a good Filipino because he is in favor of this bill now in question and denounced us as anti-Filipino because we are against it. But how can a man be the judge of our filipinism and love of country who is even ashamed to use his real name, one who was convicted by our courts of justice for the ignominious crime of treason? How can this man be the arbiter of our patriotism when during the days of the liberation of Manila, while the Americans were already on the northern bank of the Pasig River, this man was still leading a band of Makapilis and the Bisig Ng Bakal shooting his fellow Filipinos and burning their homes? And this man would call Archbishop Santos who was imprisoned in Fort Santiago for almost a year, anti-Filipino. How preposterous!

It is needless for me to state that the greatest threat to our national security and our democratic institutions today is communism. When the day comes (and I pray God that it never comes at all) that our people will be called upon to make a decisive stand against communist foreign invader, if there is any group in this country that could be relied upon to stand and fight uncompromisingly against the enemy, it would be the Catholic group. It would be the time that you would see bishops, priests and lay catholics of the type of Cardinal Mindzenty who would give us a lesson of true Rizalism and true filipinism.

Mr. President, our stand on this bill is not hard to understand. We have already said and we state it again, that we venerate Rizal as a national hero, because we acknowledge that the freedom that we now enjoy we mainly owe it to his sacrifices and martyrdom. We are in favor of the idea of fostering nationalism and patriotism in our people.

We are opposed to the approval of the Senate Bill No. 438 in its present form because, (1) it violates certain provisions of our Constitution, (2) that its approval will result in confusion, dissension and disunity in our people; (3) it violates academic freedom; and (4) it is pedagogically unsound.

At this time, I will touch only on the first two grounds of objections I cited above.

In discussing the constitutionality of this bill, I wish to state at the outset that I am not an authority on constitutional law like my worthy colleagues here in the Senate, Senators Laurel and Tañada who are authors of books on constitutional law. I am only an ordinary town lawyer, and with the limited knowledge of law that I possess, I beg to give my humble opinion on this legal question.

I submit that this bill is unconstitutional on the following grounds:

- (1) That it is in violation of the natural rights of parents to direct the education of their children;
- (2) That it is contrary to the provisions of our Constitution found in Art. III, Sec. 1 which guaranty the free exercise of religion and the free exercise and enjoyment of religious profession and worship;

As to the first ground of our objection on the constitutionality of this bill, there are two schools of thought regarding as to who shall control or direct the education of children. The first school of thought was originally advocated by Plato who claimed that a child is a mere creature of the state and as such it is the absolute right of the state to control his education. This theory was later on adopted by Marx, Engels and others. Communist Russia accepted Plato's credo, followed by Hitler in Nazi Germany, and by Mussolini, in Fascist Italy. The other school of thought maintains that it is the natural right of parents to direct the education of their children as they are expected to have more interest than the State in rearing creatures which are parts of their flesh and blood. This theory is generally accepted and adopted in almost all Christian countries and in many democratic countries in the world. England's Educational Act of 1944, Sec. 76, reads as follows:

"In the exercise and performance of all powers and duties conferred and imposed on them by this act, the Minister and local education authorities shall have regard to the general principle that, so far as it is compatible with the provisions of efficient instruction and training, and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents."

The Constitution of the Irish Republic, in Sec. 42, "acknowledges that the primary and natural

educator of the child is the family," and guarantees to respect this inalienable right. Although there is no express recognition in the American Constitution on the natural right of parents to direct the education of their children, the Federal Supreme Court, however, in the celebrated case of *Pierce vs. Society of Sisters*, 268 U.S. 510, the Court ruled the following:

"The fundamental theory of liberty upon which all government in this Union repose excludes any general power of the state to standardize the children by forcing them to accept instruction from public teachers. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right coupled with the high duty to recognize and prepare him for additional obligation."

Even the United Nations has openly come out in favor of this inalienable right of parents. In Art. XXVI of the Universal Declaration of Human Rights, the following is provided:

"Parents have a prior right to choose the kind of education to be given to their children."

And in the report of the United Nations Economic and Social Council of April, 1951, the following can be read:

"The prior right of parents to choose the kind of education that shall be given to their children, comes up against the monopolistic educational system adopted in various countries."

In the Philippines, although there is no express and direct recognition of the natural right of parents to guide the education of their children, in our Constitution, the existence of this right is clearly implied in Art. II, Sec. 1, sub-sec. 4 of the Declaration of Principles, which states:

"The natural right and duty of parents in the rearing of the youth for civic efficiency should receive the aid and support of the government."

It is as a consequence of this theory that parents are free to choose the school where their children should be educated and to determine the kind of education that they should receive, especially on matters which affect their moral character and spiritual welfare.

Here in the Philippines, it is an admitted fact that our social structure is based on the family, and it is in the family where the education of children begins and is primarily moulded. Filipino parents feel that it is their duty and at the same time their inalienable right to discipline their children, to make them follow and observe certain standards of morality and to take care of their spiritual welfare. In the exercise of this parental

authority, the parents have the right to regulate the books, literature and other reading matters that their children should read. They may prohibit their children to read immoral or indecent books which in their opinion would be injurious to the children's moral character.

Does Senate Bill No. 438 respect the rights of Filipino parents to guide the education of their children? Under this bill, the reading of the two novels of Rizal, the *Noli* and the *Fili* are made compulsory.

Suppose that a father of a family who is a devout catholic sincerely believes that the reading of the two books would alienate them from the catholic faith which in his conviction is the only faith that can save their souls, and do not want his children to read these books, would it not be in violation of his natural right to guide the education of his children, if we pass this bill? If the parents are given the right to direct the destiny of their children in this life, why compel these children to learn and read something without consulting their parents? Remember that even in civic efficiency, our Constitution provides that the parents should be encouraged, but not commanded or compelled.

In the case of *Farrington v. Tokushiga*, 273 U. S. P. 284, the law in question was a legislation by the state legislature of Hawaii, imposing regulations on all foreign schools in that territory among which were to compel all teachers in those schools to pass a test on history and how to read and write and speak the English language and at the same time prescribing the textbooks to be used in those schools. A Japanese parent contested the constitutionality of this law on the ground that to compel their school to teach certain specified textbooks violated the natural right of the parents to guide the education of their children. The Supreme Court in sustaining the claim of the Japanese parent ruled the following:

"The foregoing statement is enough to show that the School Act and the measures adopted thereunder go far beyond mere regulation of privately supported schools where children obtain instruction deemed valuable with any parents and which is not obviously in conflict with any public interest. They give affirmative direction concerning the intimate and essential details of such schools, intrude their control to public officers, and deny both owners and patrons reasonable choice and discretion in respect of teachers, curriculum and textbooks. Enforcement of the act probably would destroy most, if not all, of them, and certainly, it would deprive parents of fair opportunity to procure for their children instruction which they think important and we cannot say is harmful. The Japanese parent has the right to direct the education of his own

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child without unreasonable restriction; the Constitution protects him as well as those who speak another tongue."

It is clear to us that the compulsory nature of the bill nullifies the natural right of parents to guide the education of their children, hence it is unconstitutional.

Our second constitutional objection is based on the provisions of Art. III, section 1, subsection (7) of our Constitution which reads as follows:

"No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civic or political rights."

The meaning and scope of the above-quoted constitutional provision is aptly stated by Malcolm and Laurel in their Philippine Constitutional Law, page 421, which reads as follows:

"The basic principles which are recognized in the United States pertaining to the separation of church and state, and permitting the full and free right to entertain any religious belief, to practise any religious principle, and to teach any religious doctrine which does not violate the laws on morality and propriety, and which does not infringe personal rights, have been adopted in the Philippines. The separation between state and church is real, entire, and absolute. No law shall be made respecting the establishment of religion. The inhabitants of the Philippines are secured in the free exercise of their religion. No inhabitants or religious organization shall be molested in person or property on account of religious belief or mode of worship. No public money shall ever be applied, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, minister or other religious teacher, or dignitary as such. No religious test shall be required for the exercise of civil or political rights. * * *

Does Senate Bill No. 438 violate the aforesaid constitutional provision? Our answer is in the affirmative.

The Catholic Hierarchy of the Philippines, which is the highest Catholic ecclesiastical authority in the Philippines, in a pastoral letter dated April 21, 1956, declares that the two novels which are made compulsory reading matters under this bill contain passages which criticize, ridicule and attack fundamental dogmas, morals and practices of the Catholic Church, and hence under the provisions of Canon 1399 of the Code of Canon, they are prohibited reading matters for Catholics. Some people may differ from this conclusion and decision of the Philippine Hierarchy, but as far as the Catholics are concerned, it is supposed to be final and conclusive.

I was intently listening yesterday to the interesting discussion between the distinguished Gentleman

from Batangas, Sen. Recto and the distinguished Gentleman from Bulacán, Sen. Rodrigo on the pastoral letter of the Philippine Catholic Hierarchy. For the purposes of our study on the constitutionality of the bill in question, I believe that as to whether or not the pastoral letter is a calumny against the memory of Rizal or whether or not it unjustly condemned Rizal of being a heretic or impious, or whether or not the pastoral letter is wrong in condemning the Noli and the Fili, are only good matters for an academic discussion. As I have already stated, the Philippine Catholic Hierarchy is the highest church authority in this country, and its decision is conclusive to all Catholics who submit to that authority. As far as I am concerned, its decision is final. The Pastoral Letter has formally declared the Noli and the Fili as prohibited reading matters for Catholics without permission from the corresponding ecclesiastical authorities. Disobedience to this ruling is a sin. Such being the case, it becomes logical that any law which would compel Catholics to read these books would in our opinion violate the provisions of our Constitution which guarantees free exercise and enjoyment of religious profession and worship.

In the relatively recent past, the Federal Supreme Court in West Virginia State Board of Education vs. Barnette, 319 U. S. 624 (1943), reversing an earlier decision, declared unconstitutional a state board of education resolution compelling all teachers and pupils in public schools to salute any emblem or symbol, the decision declared the compulsory flag salute unconstitutional only insofar as it violated religious scruples or beliefs. While this is an inaccurate and opaque understanding of the Court's decision, as will presently be shown, yet even on the assumption that the Federal Supreme Court went on further than protect religious belief from being overridden by the compulsory flag salute prescribed by the State board of education, the Court's decision would still be apt and applicable to the situation provoked by Senate Bill No. 438 if we are to adhere to the theological conclusion that the two subject novels sought to be made compulsory reading matter in all schools, public and private, are against Catholic dogmas and the Catholic religion generally. For if Jehovah's Witnesses by the Court's decision in the Barnette case may not constitutionally be required in a public school to salute the flag because of fundamental religious beliefs or scruples, it follows with equal logic and persuasion that a Catholic teacher may not be constitutionally bound to teach and a Catholic pupil may not be constitutionally bound or

forced to learn or read in a Catholic school books or novels objectionable to them on religious grounds.

However, as mentioned earlier, the Barnette decision was not founded on the slender ground of religious belief or scruple. The more fundamental issue resolved by the Court were whether the State has the power or authority to compel the flag salute as a legal duty. This is made clear in the following passages from Justice Jackson's opinion for the Court:

"Nor does the issue as we see it turn on one's possession of particular religious views or the sincerity with which they are held. While religion supplies appellees' motive for enduring the discomforts of making the issue in this case, many citizens who do not share these religious views hold such a compulsory rite to infringe constitutional liberty of the individual. It is not necessary to inquire whether nonconformists beliefs will exempt from the duty to salute unless we first find power to make the salute of legal duty."

"Hence validity of the asserted power to force an American citizen publicly to profess any statement of belief or to engage in any ceremony of asset to one, presents questions of power that must be considered independently of any idea we may have as to the utility of the ceremony in question."

"* * * The question which underlies the flag salute controversy is whether such a ceremony so touching matters of opinion and political attitude may be imposed upon the individual by official authority under powers committed to any political organization under our Constitution. We examine rather than assume existence of this power * * *."

Thus, the issue in the Barnette case was one of the constitutional power which is the same issue presented when Congress, by Senate Bill No. 438, seeks to make the compulsory teaching and reading of the two subject novels "a legal duty". Because of the clear analogy between the "compulsory flag salute" involved in the Barnette case and the "compulsory novel reading or teaching" proposed by Senate Bill No. 438, an exposition of the Barnette case related to the situation created by Senate Bill No. 438 is appropriate. The governmental action taken in the Barnette case is described by the Court thus:

"* * * the West Virginia legislature amended its statutes to require all schools therein to conduct courses of instruction in history, civics, and in the Constitutions of the United States and the State 'for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of Americanism, and increasing the knowledge of the organization and machinery of the government.' Appellant Board of Education was directed, with advice of the State Superintendent of Schools, to 'prescribe the courses of study covering these subjects' for public schools. The Act made it the duty of private, parochial and den-

ominational schools to prescribe courses of study 'similar to those required for the public schools.'

"The Board of Education on January 9, 1942, adopted a resolution containing recitals taken largely from the Court's Gobitis opinion and ordering that the salute to the flag become 'a regular part of the program of activities in the public schools' that all teachers and pupils 'shall be required to participate in the salute honoring the Nation represented by the Flag; provided, however, that refusal to salute the Flag be regarded as an Act of insubordination, and shall be dealt with accordingly.'

"Failure to conform is 'insubordination' dealt with by expulsion. Readmission is denied by statute until compliance. Meanwhile the expelled child is 'unlawfully absent' and may be proceeded against as a delinquent. His parents or guardians are liable to prosecution, and if convicted are subject to fine not exceeding \$50 and a jail term not exceeding thirty days."

In the case of Senate Bill No. 438, Sec. 5 thereof provides for the punishment to heads of schools and professors who fail to teach compulsory the two subject novels, which includes dismissal from the public school and/or disqualification from teaching in a government-recognized school as well as withdrawal of government recognition for the school failing to teach or prescribe the novels. Thus, the factual and legal situation in the Barnette case and Senate Bill No. 438 are identical or similar.

In declaring unconstitutional the State board resolution enforcing the flag salute, the Federal Supreme Court expostulated thus:

"The freedom asserted by these appellees does not bring them into collision with rights asserted by any other individual. It is such conflicts which most frequently require intervention of the State to determine where the rights of one end and those of another begin. But the refusal of these persons to participate in the ceremony does not interfere with or deny rights of others to do so. Nor is there any question in this case that their behavior is peaceable and orderly. The sole conflict is between authority and rights of the individual. The State asserts power to condition access to public education on making a prescribed sign and profession and at the same time to coerce attendance by punishing both parent and child. The latter stand on a right of self-determination in matters that touch individuals opinion and personal attitude."

As regards Senate Bill No. 438, the freedom asserted or advocated by Catholic teachers not to teach compulsory and by Catholic pupils and parents not to read by compulsion the two subject novels does not collide against the freedom of others who may desire to teach or read the novels. The sole issue, like in the Barnette case, is between authority (the State) on one hand, and the rights of the individual schools, teachers, parents and pupils on the other.

Explaining the theory of the Bill of Rights similar to our Bill of Rights, Justice Jackson stated:

" * * * These principles grew in soil which also produced a philosophy that the individual was the center of society, that his liberty was attainable through mere absence of governmental restraints, and that government should be entrusted with few controls and only the mildest supervision over men's affairs. * * *"

It is significant to observe the following passages from the explanatory note to Senate Bill No. 438:

"Today, more than at any period of our history, there is a need for a re-dedication to the ideals of freedom and nationalism for which our heroes, from Dagohoy and Lapulapu to Rizal, Del Pilar, Bonifacio and Mabini, lived and died. The words of these nationalists have impressed upon our history the stamp of undying glory. It is, therefore, meet that in recalling them, particularly the national hero and patriot, José Rizal, we remember with especial fondness and devotion their words that have shaped the national character."

"*Noli Me Tangere* and *El Filibusterismo* must be read by all Filipinos. They must be taken to heart, for in their pages we see ourselves as in a mirror; our defects as well as our strength, our virtues as well as our vices. Only then would we become conscious as a people, and so learn to prepare ourselves for painful sacrifices that ultimately lead to self-reliance, self-respect, and freedom."

Obviously, the compulsory flag salute was motivated by the same consideration underlying Senate Bill No. 438. But the Court declared, in rejecting such consideration, that:

" * * * To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds. We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes. When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order."

The Court further stated:

"National unity as an end which officials may foster by persuasion and example is not in question. The problem is whether under our Constitution compulsion as here employed is a permissible means for its achievement."

"Struggles to coerce uniformity of sentiment in support of some end thought essential to their time and country have been waged by many good as well as by evil men. Nationalism is a relatively recent phenomenon but at other times and places the ends have been racial or territorial security, support of a dynasty or regime, and particular plans for saving souls. As first and moderate methods to attain unity have failed, those bend on its accomplishment must resort to an ever increasing severity. As

governmental pressure toward unity becomes greater, so strife becomes more bitter as to whose unity it shall be. Probably no deeper division of our people could proceed from any provocation than from finding it necessary to choose what doctrine and whose program public educational officials shall compel youth to unite in embracing. Ultimate futility of such attempts to compel coherence is the lesson of every such effort from the Roman drive to stamp out Christianity as a disturber of its pagan unity, the Inquisition, as a means to religious and dynastic unity, the Siberian exiles as a means to Russian unity, down to the fast failing efforts of our present totalitarian enemies. Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard."

The aforementioned fits strikingly the situation relative to Senate Bill No. 438. To believe that patriotism or nationalism will flourish through the compulsory reading or teaching of the two novels instead of leaving them to be read by those who may desire, "is to make an unflattering estimate of the appeal of our institutions to free minds" not to mention the unflattering estimate made of the novels themselves.

The authors of Senate Bill No. 438 also state:

"It is for this purpose that this bill is presented. Many speak of Rizal as if they had read and understood him. His *Noli Me Tangere* and *El Filibusterismo*, the greatest Philippine social documents, live only as names to be mentioned on auspicious occasions, but are not read and studied. It is a national shame that in an era such as this, the works of José Rizal are not as assiduously read in his own country as they are in some countries of South America. To ignore them, as most of us do, is to ignore Rizal and what he stood for. To praise him without taking the trouble to study that which elicits our praises is to be hypocritical."

The reply to this founded on constitutional law are the following pronouncement of the U. S. Supreme Court:

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein. * * *"

Accordingly, if the compulsory flag salute rule in public schools transcends constitutional limitations on state power, it is believed that the compulsory reading of the two subject novels in private and catholic schools also transcends the same constitutional limitations.

I shall end my discussion on this point but quoting a portion of the concurring opinion penned by Justice Black and Justice Douglas:

"Neither our domestic tranquility in peace nor our martial efforts in war depend on compelling little children

to participate in a ceremony which ends in nothing for them but a fear of spiritual condemnation. If, as we think, their fears are groundless, time and reason are the proper antidotes for their errors. The ceremonial, when enforced against conscientious objectors, more likely to defeat than to serve its high purpose, is a handy implement for disguised religious persecution. As such, it is inconsistent with our Constitution's plan and purpose. (West Virginia State Bd. of Edu. v. Barnette, 319 U. S. 644).

For the foregoing considerations, I humbly believe that Senate Bill No. 438 is unconstitutional.

My second important reason in objecting to the bill now under discussion is because if it is approved, it would spell disaster to our national unity. We see now that our people are divided into two camps: one side is aggressive and oftentimes provocative because it is driven by an intense passion of nationalism and the other side is cool and calculating but nevertheless firm and determined because it is inspired by faith. Intermittent skirmishes have already taken place which is seriously threatening the solidarity of our people. I wonder if it entered into the broad estimation of the proponents of this measure the fatal consequences that will ensue if this bill were enacted into law. I speak with no authority, but it is within the realm of probability, that if this bill becomes a law, about six hundred catholic schools with an enrollment of about three hundred thousand students would close their doors, thus throwing out of jobs about fifteen thousand school teachers. You will ask me, why? Here is a catholic school whose director is a devout catholic. This head of the school believes that it is against his religious belief and conscience to compel the students to read the Noli and the Fili. In view of the penal provision provided for in Sec. 5, sub-section b of this bill, the only alternative left for him is to close the school. After all these schools are closed, what do you think the catholics would do? They will not just throw their arms wide open in desperation and be resigned to their fate. You would not blame them if in the following elections they should band together and fight hard to elect to Congress representatives who would be sympathetic to their cause. I am sure that the fight would be hard and bitter. They may lose or they win in that struggle. But I am certain that there will be one sure loser in that fight, and it is our country and our people. There will be chaos, confusion and disintegration of our national unity. This is the situation that the communists have been

trying to create in our country. This bill will accomplish what the Huks failed to achieve for many years.

But why should we bring this country into this sorry mess? All those who favor the bill and those who are against it agree on the objectives. All are for the promotion of the nationalistic spirit of the people through the reading of the writings of our national heroes. We only disagree in the method proposed in this bill to attend these objectives. The objectives to this bill claim that the means availed of to attend the end constitutes an offense to their religion, a thing which is very dear to their hearts. I know that there is a way to reconcile the opposing views on this important question. There ought to be a way.

I well remember that during the first days of the session of this Congress, this body was confronted with the problem about the constitution of the Electoral Tribunal of the Senate. The lone minority member of this chamber, the distinguished Gentleman from Quezon, Sen. Tañada, was bitterly against the position of the majority and was ready to fight tooth and nail to assert what he believed was his constitutional right. Then for the first time during this Session of Congress, the distinguished Gentleman from Batangas, Sen. Laurel, in his usual statesmanlike manner broke his silence and interceded in the settlement of the controversy, and after speaking briefly on the floor, he asked for the suspension of the session. After conferences and huddles with his fellow senators, a satisfactory solution was found. Sen. Laurel asked for the resumption of the session and the question was resolved to the satisfaction of all the parties concerned and to the best interests of the Senate.

Why don't we apply the same attitude, the same spirit, and the same procedure in the solution of this great problem that now confronts us? Why don't we call for a moratorium of all bickerings, recriminations and name-callings, suspend for a while the consideration of this measure, let passions calm down, and then put all our heads together in a sincere effort to find a happy compromise to this problem? When Rizal kindled the fire of nationalism in the hearts of the Filipinos, he did not mean to divide our people nor wreck this country. I regret to state that I am not in favor of the proposition launched here the other day by Sen. Rodrigo that we hold a closed door conference with the representatives of the Catholic Hierarchy. I consider this unnecessary because

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we already know their views and their stand on this question. I am sure that we have in this chamber great minds and big hearts capable of successfully solving this difficult situation.

I see no necessity for the urgent approval of this bill. The interests of our country will not suffer any substantial damage if we fail to approve this bill this week or next week. We need not be told of the glorious, heroic and patriotic stand that our boys had made in Bataan and Corregidor in the last world war and the patriotic sacrifices of the guerrillas and the volunteer guards in the resistance movement, and I am sure that ninety-five per cent of those heroes did not read the *Noli Me Tangere* and the *El Filibusterismo*. God in His Divine Wisdom, instills in every man love of country where he is born. That is why our Supreme Court does not consider ignorance as a mitigating circumstance in the crime of treason.

So, I repeat that there are no compelling reasons why we should rush the approval of this measure. I am not presenting now a formal motion for postponement of the discussion of this bill. But I am presenting this proposition to the distinguished author of the bill, the distinguished Gentleman from Batangas, Sen. Laurel, whose patriotism is known to all, to our venerable old man, the presiding officer of this chamber, to the distinguished Floor Leader and to all my colleagues in the Senate for their consideration.

May God grant us the courage and the wisdom to solve this vital problem to the best interests of our motherland. I thank you.

SUSPENSIÓN DE LA SESIÓN

Mr. President, before I answer interpellations, I would like to ask for a suspension of the session for a few minutes. I feel really tired.

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

Eran las 11:30 a.m.

REANUDACIÓN DE LA SESIÓN

Se reanuda la sesión a las 11:35 a.m.

The PRESIDENT. The session is resumed.

Senator RECTO. Mr. President, will the gentleman from Samar yield for some questions?

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

Senator ROSALES. With pleasure.

Senator RECTO. If I understood the gentleman from Samar correctly, he rests his case in opposing Senate Bill No. 438, which makes compulsory in our schools, colleges and universities the reading of the *Noli Me Tangere* and *El Filibusterismo*, on certain provisions of the Philippine Constitution to which I will presently make reference in detail and particularly on the decision of the United States Supreme Court in the Jehovah's Witnesses Case. Am I correct?

Senator ROSALES. Yes, Your Honor.

Senator RECTO. The gentleman has not found any decision of our own Supreme Court either in favor or against the gentleman's stand on this matter?

Senator ROSALES. On this particular question, I have not found any Philippine case applicable to the question that confronts us.

Senator RECTO. The particular provisions of the Philippine Constitution quoted and invoked as authority by the gentleman from Samar are, first, Section 4, Article II, Declaration of Principles of the Constitution, which reads as follows: "The natural right and duty of parents in the rearing of the youth for civic efficiency should receive the aid and support of the Government;" and second, No. (7), Section 1 of Article III, Bill of Rights, which reads as follows: "No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights." Will the gentleman please state if he has not come across any other provision of the Constitution concerning education and the duties and rights of the state on this matter?

Senator ROSALES. Yes, I remember. That the government shall supervise and regulate all schools in this country.

Senator RECTO. The gentleman will admit that he did not make reference to that particular provision of the Constitution in his speech, by repudiating it or by invoking its authority.

Senator ROSALES. For the information of the gentleman from Batangas on this bill now under consideration, the gentleman from Bulacan and I had made a joint plan in our opposition to this bill. We have divided our points in opposing the measure into two: I was assigned to the constitutionality of the provision of our Constitution about religious freedom, and the gentleman from Bulacan is assigned to speak on the provision

of the Constitution regarding the educational aspect, so I will not touch that point.

Senator RECTO. But this constitutional provision I have referred to which the gentleman failed to mention in his speech, is relevant to the question of constitutionality of the measure.

Senator ROSALES. Yes, the gentleman from Bulacan will also contest the validity of this bill on that constitutional ground.

Senator RECTO. Just the same, but because the gentleman has dwelt on the question of constitutionality of this bill, may I read to the Senate Section 5, Article XIV, of the Constitution, General Provisions, which reads as follows:

"SEC. 5. All educational institutions shall be under the supervision of and subject to regulation by the State. The Government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary instruction, and citizenship training to adult citizens. All schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency, and to teach the duties of citizenship. Optional religious instruction shall be maintained in the public schools as now authorized by law. Universities established by the State shall enjoy academic freedom. The State shall create scholarships in arts, science, and letters for specially gifted citizens."

Now, I desire to call the attention of the gentleman to the first provision of this section 5 of Article XIV: "All educational institutions shall be under the supervision of and subject to regulation by the State." All educational institutions, both public and private schools, are comprehended. Is that admitted?

Senator ROSALES. I admit the interpretation is correct.

Senator RECTO. Does not the Senator agree that the word "regulation" here, as stated by many authorities, is synonymous to "control"?

Senator ROSALES. Offhand, I don't believe so. In my humble opinion I believe that *regulation* is negative, and *control* is positive.

Senator RECTO. Shall I need to read the authorities on the matter? They are at hand.

Senator ROSALES. If the gentleman will permit me, I told him that that part of the question is reserved to be discussed by the gentleman from Bulacan. However, I am willing to be enlightened.

Senator RECTO. Not only from law dictionaries and current dictionaries like Century Dictionary and Webster's, but also from judicial decisions it appears that "to regulate" means "to control." I will be very glad to furnish this material to the gentleman.

Senator ROSALES. I will thank the gentleman from Batangas and Tayabas.

Senator RECTO. The power of the State, under this provision of the Constitution, to the effect that when the Constitution enjoins that "all educational institutions shall be under the supervision of and subject to regulation by the State," flows from the other provision appearing in the same Article XIV, section 5, of the Constitution, which reads:

"The Government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary instruction, and citizenship training to adult citizens. All schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency, and to teach the duties of citizenship."

In other words, because the government is under obligation to "establish and maintain a complete and adequate system of public education," and because "all schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency and to teach the duties of citizenship," because all of these duties are enjoined by the Constitution on the government, all educational institutions must submit to the supervision and control of the State.

Senator ROSALES. I believe, gentleman from Batangas, that the word "control" and particularly the phrase "to regulation" must be limited to fundamental rights of the citizens guaranteed in our Bill of Rights, and one of them is freedom in the exercise of religion. I don't believe the gentleman from Batangas presumes that the State can wipe out all other rights guaranteed by the Constitution.

Senator RECTO. Provided that in doing it, there is no infringement of the Constitution. I think the gentleman will admit that the power of the government in this respect is without limitation.

Senator ROSALES. That is where the difference lies, gentleman from Batangas, because we claim that this regulation being provided now violates another right.

Senator RECTO. I will come to that point later. What I mean to say is, the power of the State in this connection is unlimited, because, otherwise, how can the State accomplish this purpose as enjoined by the Constitution, that all schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency, and to teach the duties of citizenship, if all educational institutions will not be placed under the regulation and supervision of the State? That is my point.

Now, there is another provision in the Constitution, in the Declaration of Principles, the one

alluded to by the gentleman. Does the gentleman admit—this is a preliminary question—that the statement of the Constitution in the declaration of principles does not have the same coercive force as the provisions of the Constitution which are mandatory and directive?

Senator ROSALES. I have to agree with the gentleman because he was the president of the Constitutional Convention.

Senator RECTO. I would rather the gentleman gave his agreement not because of that fact, but because of his own conviction.

Senator ROSALES. That is my conviction, thank you.

Senator RECTO. Now, in the Declaration of Principles, this is the provision on defense of the State: "The defense of the State is a prime duty of government, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service." That is section 2, Article II, Declaration of Principles. I repeat: "The defense of the State is a prime duty of government, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service." Has the Senator come across a unanimous decision of our Supreme Court interpreting that particular provision of the Constitution of the Declaration of Principles?

Senator ROSALES. I have not come across that.

Senator RECTO. There are two cases decided jointly, that is, in one single opinion, by the Supreme Court: *People of the Philippines versus Tranquilino Lagman and People of the Philippines versus Primitivo de Sosa*, promulgated July 30, 1938. I will comment briefly on the decision. It was penned by Chief Justice Avanceña and unanimously concurred in by all the other Justices of the Supreme Court. I notice from my copy of the decision that Justice Laurel was one of those who concurred in the decision. It said:

"In these two cases (G.R. Nos. 45892 and 45893), the appellants Tranquilino Lagman and Primitivo de Sosa are charged with a Violation of Section 60 of Commonwealth Act No. 1, known as the National Defense Law. It is alleged that these two appellants, being Filipinos and having reached the age of twenty years in 1936, willfully and unlawfully refused to register in the military service between the 1st and 7th of April of said year, notwithstanding the fact that they had been required to do so. The evidence shows that these two appellants were duly notified by the corresponding authorities to appear before the Acceptance Board in order to register for military service in accordance with law, and that the said appellants, in spite of these notices, had not registered up to the date of the filing of the information.

"The appellants do not deny these facts, but they allege in defense that they have not registered in the military service because Primitivo de Sosa is fatherless and has a mother and a brother eight years old to support, and Tranquilino Lagman also has a father to support, has no military leanings, and does not wish to kill or be killed.

"Each of these appellants was sentenced by the Court of First Instance to one month and one day of imprisonment with the costs.

"In this instance, the validity of the National Defense Law, under which the accused were sentenced, is impugned on the ground that it is unconstitutional."

"The national Defense Law, in so far as it establishes compulsory military service, does not go against this constitutional provision but is, on the contrary, in faithful compliance therewith. The duty of the Government to defend the State cannot be performed except through an army. To leave the organization of an army to the will of the citizens would be to make this duty of the Government excusable should there be no sufficient men who volunteer to enlist therein.

"In the United States the courts have held in a series of decisions that the compulsory military service adopted by reason of the civil war and the world war does not violate the Constitution, because the power to establish it is derived from that granted to Congress to declare war and organize and maintain an army. This is so because the right of the Government to require compulsory military service is a consequence of its duty to defend the State and is reciprocal with its duty to defend the life, liberty and property of the citizen. In the case of *Jacobson vs. Massachusetts* (197 U.S., 11; 25 Sup. Ct. Rep., 385), it was said that, without violating the Constitution, a person may be compelled by force, if need be, against his will, against his pecuniary interests, and even against his religious or political convictions, to take his place in the ranks of the army of his country, and risk the chance of being show down in its defense. In the case of *United States vs. Olson* (253 Fed., 233), it was also said that this is not deprivation of property without due process of law, because, in its just sense, there is no right of property to an office or employment. The circumstance that these decisions refer to laws enacted by reason of the actual existence of war does not make our case any different, inasmuch as, in the last analysis, what justifies compulsory military service is the defense of the State, whether actual or whether in preparation to make it more effective, in case of need."

From the reading of this decision, will the gentleman draw the conclusion, as I do, that while in the cited American case the only provision of the American Constitution which could have been invoked is the right of the American Congress to declare war, in our own Constitution not only is there the same provision regarding the power of Congress to declare war, but also section 5 of the General Provisions conferring on the State the power to regulate, control and supervise all educational institutions? This provision is peculiar to our own Constitution; what I mean to

say is that it has no counterpart in the American Constitution.

According to the Supreme Court the provision in our Constitution declaring it a prime duty of the Government to defend the State makes it necessary, in the fulfillment of such duty, to require, that is by compulsion, from the citizens military or civil service. Now, arguing in *pari sensu*, because the Constitution has also imposed on the State the duty of establishing and maintaining a complete and adequate system of public education and declared that all schools shall aim to develop moral character, personal discipline, civic conscience and to teach the duties of citizenship, the State, in the fulfillment of this duty, can prescribe whatever is necessary for the attainment of said ends, provided, as you say, it does not infringe on any other provision of the Constitution. Can we agree on that?

Senator ROSALES. On that last point, yes, but as to the other things you stated previously, I beg to differ.

Senator RECTO. Does not the gentleman believe that in the exercise of its power to regulate and control educational institutions the State can prescribe the curricula or whatever subjects the State believes necessary to attain the educational ends prescribed by the Constitution, provided it will not violate the provisions of the Bill of Rights?

Senator ROSALES. I doubt of that right of the State judging from the decision I read in the course of my speech, that decision concerning a law passed in Hawaii.

Senator RECTO. I will come to that.

Senator ROSALES. Because, as a matter of fact, even at present the Department of Education does not require but only prescribes the subjects in the schools.

Senator RECTO. You mean the flag salute? I am coming to that, I am going to discuss that matter in particular. Does the gentleman remember that there is a law making compulsory not only the reading but the teaching of Tagalog in all our schools?

Senator ROSALES. That is true, that is compulsory.

Senator RECTO. That compulsion flows from this provision of the Constitution which is less mandatory than the general provision on education, which says:

"SEC. 3. The Congress shall take steps towards the development and adoption of a common national language based on one of the existing native languages . . .

That is the only provision of the Constitution which empowered Congress to enact a law making compulsory the teaching of Tagalog. The word "Tagalog" is not even mentioned in the Constitution. It says merely that the national language which Congress shall seek to develop must be based on one of the existing native languages.

Senator ROSALES. If the gentleman will allow me . . .

Senator RECTO. Pardon, I have not finished my question. Does the gentleman believe that the law which makes compulsory the study of Tagalog, not only the reading of Tagalog books but the study of Tagalog and the teaching of Tagalog, is unconstitutional?

Senator ROSALES. It is not, because in the first place, it is specifically provided for in our Constitution and, in the second place, because in that bill making compulsory the study of Tagalog, there is nothing which conflicts with the other rights of the students.

Senator RECTO. The Tagalog language, I must admit, I am a Tagalog, is only a regional language.

Senator ROSALES. Yes.

Senator RECTO. The Ilocanos do not speak Tagalog, the Pampangueños neither. The Eastern Visayan people, the Western Visayans, the Moslems, they do not speak Tagalog.

Senator ROSALES. But there is that specific provision in our Constitution.

Senator RECTO. Not about Tagalog. The Congress has been enjoined by the Constitution just to develop a national language based on any of the existing native languages. It does not specifically say, Tagalog.

Senator ROSALES. In that case, you are making me doubt about the constitutionality of that law.

Senator RECTO. The gentleman is welcome to filing an action in the Supreme Court testing the constitutionality of that law, and I will appear as *amicus curiae* for its validity.

Senator ROSALES. I am not in a position to do that. In the first place, there is no opposition to the teaching of Tagalog. There are no rights involved, no fundamental rights of other individuals which are prejudiced, and I don't believe the question requires our attention at the present time.

Senator RECTO. I am only arguing on the principle of *pari materia*. Now, may I also remind Your Honor that we have recently passed a law making compulsory the teaching of Spanish in our schools, colleges and universities? It is an amendment to the Sotto law. The Sotto law pre-

scribed the teaching of Spanish only as an optional subject. It is the teaching of Spanish, not merely the reading of Spanish books, that is made compulsory. The students must be graded in Spanish, I am not familiar with those technicalities of education, but it is a part of the curriculum, and a student, if he wants to pass the course, must obtain the necessary units in that particular subject. Do we agree on that, that we have that law now?

Senator ROSALES. We have that law, but after a brief study that I have made on the case, I doubt the constitutionality of the law.

Senator RECTO. That is the gentleman's privilege, but the law is still in our statute books, and I will also appear for the government to uphold the constitutionality of that act if the gentleman wishes to make an appropriate judicial test, because I am one of those who voted for the approval of the measure. Well, the power of Congress to enact the law making compulsory the study of the Spanish language was only based on that one-line provision of the Constitution, which says, "English and Spanish shall continue as official languages." On the basis of that alone, Congress considered itself empowered to prescribe the compulsory study of Spanish, because it is one of the official languages.

Senator ROSALES. As I have already said, I doubt the constitutionality of that law.

Senator RECTO. That is the privilege of the gentleman, I repeat.

Senator ROSALES. Thank you.
Senator RECTO. I notice from the address of the gentleman from Samar that he has been using interchangeably, as if one word were synonymous with the other, the words "read" and "teach." The gentleman, for instance, in referring himself to the bill under discussion, said that it prescribes the reading and teaching of Rizal's novels. Was that a *lapsus*, or was it intentionally said?

Senator ROSALES. Well, if you make . . .
Senator RECTO. In various passages of his speech the gentleman said that. Does the gentleman believe that his attack on the constitutionality of this measure will suffer from weakness or infirmity if he does not use the word "learn" or "teach," instead of "read"?

Senator ROSALES. No, the way I studied the bill, gentleman from Batangas, is that what is required is only reading, not teaching. If I used the word "teach", you are right, it was *lapsus*.

Senator RECTO. But the gentleman used them at least on two occasions. With respect to pupil, he used the words "learning" and "teaching".

Senator ROSALES. I am correcting myself, gentleman from Batangas.

Senator RECTO. The gentleman can agree with me that the bill does not make compulsory the acceptance of Rizal's principles or doctrines, whether in religion or in patriotism, or in any other respect.

Senator ROSALES. It does not.

Senator RECTO. In other words, after a passage of the *Noli Me Tángere* has been read in school for instance, either the professor or any of the pupils can challenge Rizal's stand in that particular passage that has been read.

Senator ROSALES. If the gentleman from Batangas will allow me to say a few words on that point, I think there are several ways of instruction. One is teaching through teachers and one is through reading of books. Now, if you, for example, prescribe a book to be read by the pupils, it is because you want those pupils to learn from those readings. That is one way of instruction.

Senator RECTO. To know what the book contains?

Senator ROSALES. To read and to know.

Senator RECTO. Is not the pupil left free to decide with the use of his own intelligence whether to accept or to reject the thought or opinion conveyed in the passage or passages read?

Senator ROSALES. I do not agree with the gentleman from Batangas on that point. Suppose, gentleman from Batangas, that I am offered an apple, partly good and partly rotten. I do not like to eat the rotten part. Then a law is passed by Congress saying, "You have got to eat that part."

Senator RECTO. What did Your Honor say as to the rotten part of the apple?

Senator ROSALES. I do not like to eat that part, the rotten part.

Senator RECTO. The gentleman is right, nobody would want that rotten part.

Senator ROSALES. Yes. For example, I do not want to read the *Noli Me Tángere* and the *El Filibusterismo*, but I will be compelled by this bill if this bill is approved into law.

Senator RECTO. You have made a comparison between eating and reading.

Senator ROSALES. I have not finished my analogy yet. The gentleman from Batangas probably will understand my analogy or differ from the point I want to drive. Now, you say that in this particular bill the pupils are only compelled to read but they are not compelled to believe from what they read. I make that comparison because I say that if an apple is rotten I do not like to

eat it. They tell me, "Go ahead. Anyway, you can throw it out if you choose to throw it out. If you like it, swallow it. If you like it, eat it." But after masticating that apple, and because I really do not like the apple, I throw it away. But there are still some portions that remain inside my body causing disease or ailment in my body. It is the same as the *Noli Me Tángere* which I do not want to read. But you compel me to read. All right, I read and read, but something here (pointing to the head) will remain from what I read that I do not like.

Senator RECTO. All right, may I proceed?

Senator ROSALES. Yes, Your Honor.

Senator RECTO. Does not the gentleman believe that the parity of example would be more correct and fair if instead of telling the person to whom I offer the apple, "Eat this apple," I merely say, "Examine the apple."

Senator ROSALES. But in this particular case, Your Honor, you cannot differentiate between examining and eating, because if you read, you cannot simply read without absorbing into your mind what you read. You cannot prevent some ideas that you read in the book from entering your mind.

Senator RECTO. Suppose I present Your Honor with an apple according to Your Honor's example. The apple is half good, half rotten. And I tell Your Honor, "Do please examine this apple. Eat it if you want. Do not eat it, if you don't want." That is the parity that can be established with this bill.

Senator ROSALES. No.

Senator RECTO. Because the bill merely requires the student to acquaint himself with these books of Rizal. It does not compel him to swallow Rizal's opinions.

Senator ROSALES. If the gentleman will allow me to say something on that point, what the bill contemplates is, examine the apple. The bill does not say, all right, examine the book, the cover and everything. If that is the only provision of the bill, I will have no objection.

Senator RECTO. What is reading but an examination?

Senator ROSALES. In examination through reading, you absorb something from what you read.

Senator RECTO. How could you know that an apple is half rotten and half good if you will not examine it? In the case of the *Noli Me Tángere*, how could you say that certain parts of the book are rotten, that is, heretical, according to the bishops, and impious, and certain other parts are patriotic, if you will not read them all? If we do

not give the student the chance of reading the book, how could he know that the bishops are right in saying that certain parts of the *Noli Me Tangere* are heretical? Particularly after the publication of this "pastoral," you will have to give every student and every Filipino a chance to examine the *Noli Me Tangere* in order to find out if the bishops are right or not in what they say in the "pastoral."

Senator ROSALES. As I have said in the course of my speech, I believe in that declaration of the Philippine hierarchy and I follow it, and I know that it is bad for me to read those books if I am a good Catholic.

Senator RECTO. Does the gentleman believe that the decision as to whether those passages are condemned by the Canon Law rests on the bishops?

Senator ROSALES. Which passages?

Senator RECTO. Those passages in the books of Rizal which are allegedly contrary to dogma, morals and practices.

Senator ROSALES. I suppose they must have been examined by the Catholic hierarchy.

Senator RECTO. But the bishops are parties to the controversy. How can they decide that?

Senator ROSALES. As I said, they are the highest authority of the Catholic church in this country.

Senator RECTO. Just the same, they are litigants. A party to a suit cannot be the judge that will decide it.

Senator ROSALES. Well, the organization of the church . . .

Senator RECTO. The bishops maintain one attitude and we maintain another, so this must be decided by a third party.

Senator ROSALES. The question involved has no analogy, because the Philippine hierarchy is like a law-making body, the highest authority in this country. A law is approved by Congress, signed by the President, and after that it becomes a law in this country, and every citizen is bound to obey that law. In our organization in the Catholic church, we consider the Philippine hierarchy as that authority that has the power to promulgate rules.

Senator RECTO. I can admit that when the hierarchy is not a party to the controversy.

Senator ROSALES. Well, it is more a matter of faith.

Senator RECTO. Perhaps the Vatican is the only authority that can decide the controversy. Perhaps the *Rota*, one of those agencies of the Vatican, or the Holy Pope himself. This is a controversial matter, the hierarchy is a litigant, is a party, and cannot be at the same time, the judge.

Senator ROSALES. If the Philippine hierarchy is a litigant, you would also call the Pope a litigant because he would be interested in this question.

Senator RECTO. So far the Pope has not taken sides. And Mr. Senator, I think that even the bishops refrained from calling this statement a "pastoral". This statement, if I may be permitted to compare the present issue to a civil litigation, this "pastoral" is just a brief for one of the parties. We cannot allow another litigant to decide this case. It would be most unfair.

Senator ROSALES. I have not stated to the Gentleman from Batangas as to whether that pastoral letter of the hierarchy is legally issued under the Canon Law, but I suppose also that it is an authoritative promulgation of rules that should be followed by the Catholics.

Senator RECTO. I am coming to another point. I am imposing too much, I know, on the benevolence of the gentleman.

Senator ROSALES. I am at the discretion of the gentleman from Batangas.

Senator RECTO. The only remaining point in connection with my interpellation is the case of the Jehovah's Witnesses, that is, the decision in the Barnette case, by the United States Supreme Court. The gentleman will admit that the American Constitution does not contain any provision similar to the provision on education in our Constitution. The American Constitution does not have the counterpart of that provision of ours.

Senator ROSALES. Yes. If the gentleman will allow me to say something on that point, although the American Constitution does not specifically mention those noble objectives which are recited in our Constitution, there are many decisions of the Supreme Court of the United States where those objectives are recognized.

Senator RECTO. Yes, but those decisions have been changing. You cannot change the Constitution.

Senator ROSALES. The latest is the Barnette case.

Senator RECTO. The difference is, that the decisions of the Supreme Court of the United States, because they are the opinions of those who from time to time compose the Supreme Court, change also from time to time, as they have changed in this case. The Senator must have come across the Gobitis case that had preceded the Barnette case.

Senator ROSALES. Yes.

Senator RECTO. But while court decisions change, the provisions of the Constitution do not

change, unless they are amended through constitutional processes. Now I come to the Barnette case. Will the gentleman please tell us here what was the ceremony of the flag salute which was declared unconstitutional by the American Supreme Court, because it was made compulsory on the students?

Senator ROSALES. It was the raising of the hand and the utterance of the pledge.

Senator RECTO. That is a very important thing, and I did not hear that mentioned in the speech of the gentleman. I heard him only talking about the salute; the gentleman did not mention the pledge accompanying the salute.

Senator ROSALES. Well, I wanted to be brief, because if we go into the details of the case, it would take us one day to finish.

Senator RECTO. No, the pledge consisted only of four or five lines, and the reason for the decision was the compulsory recital of the pledge. According to the American Supreme Court, "What is required in this case is the stiff-armed salute, the saluter to keep the right hand raised, with palm turned up, while the following is repeated: 'I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation indivisible, with liberty and justice for all.'" That was the ceremony, and that was the pledge that every student must recite while making the stiff-armed salute with his right hand raised with the palm turned up. In the Gobitis case, as the gentleman remembers, the flag salute was declared proper and constitutional. It was not banned. The Supreme Court declared that the regulation of schools prescribing the flag salute did not infringe the Constitution.

Justice Jackson, who penned the opinion of the majority in the Barnette case, said: "As the present Chief Justice said in his dissent in the Gobitis case, the State 'may require teaching by instruction and study of all in our history and in the structure and organization of our government, including the guaranties of civil liberty, which tend to inspire patriotism and love of country.'" But Justice Jackson added: "Here, however (in the Barnette case), we are dealing with a compulsion of students to declare a belief. They are not merely made acquainted with the flag salute so that they may be informed as to what it is or even what it means."

I shall now call the attention of the Senate to other passages of the Barnette decision from which it may be clearly inferred that the reason why the flag salute ceremony was declared unconstitu-

tional: it was because of the pledge, the recital of which accompanied the flag salute, and not the flag salute itself, that is the mere raising of the right hand in salute to the flag. The Supreme Court said that said pledge was a pledge of allegiance, an assertion of belief. These are the Court's words: "Here it is the State that employs a flag as a symbol of adherence to government as presently organized. It requires the individual to communicate *by word and sign* his acceptance of the political ideas it thus bespeaks. Objection to this form of communication when coerced is an old one, well known to the framers of the Bill of Rights." The Court said further: "If official power exists to coerce acceptance of any patriotic creed, what it shall contain cannot be decided by courts, but must be largely discretionary with the ordaining authority, whose power to prescribe would no doubt include power to amend. Hence validity of the asserted power to force an American citizen publicly *to profess any statement of belief* or to engage in any ceremony of the assent to one, presents questions of power that must be considered independently of any idea we may have as to the utility of the ceremony in question." From the remaining passages of the Court's opinion it is clear that the *ratio decidendi* of the Barnette case, was that no citizen can be compelled *to profess publicly any pledge or assertion of political belief*.

Now, in connection with our bill, is there any pledge required from the students?

Senator ROSALES. There is none, I admit.

Senator RECTO. So, you cannot invoke the authority of the Barnette decision to attack the validity of the bill.

Senator ROSALES. I will try to show why the decision or the ruling in the Barnette case is applicable to this bill under consideration. I am correct in my appraisal of that decision, the majority opinion which was penned by Justice Jackson, did not deem it necessary even to mention the pledge. He based his decision on the element of compulsion which is guaranteed under the Fourteenth Amendment of the Constitution which seeks to protect the First Amendment, which is the freedom of religion. But in the concurring opinion penned by Justice Black and Justice Douglas, the following can be read: "The Statute requires the appellee to participate in the ceremony aimed at inculcating respect for the flag and for this country. The Jehovah's Witnesses, without any desire to show disrespect for either the flag or the country, interpret the Bible as commanding, at the risk of God's

displeasure, that they not go through the form of a pledge of allegiance to any flag." In other words, the main objection of Jehovah's Witnesses was in the pledge, because it was against their religion and because the pledge is in violation of their freedom of religion. Now, in this bill, under Senate Bill No. 438, the students will be compelled to read something which they believe is against their religious conviction.

Senator RECTO. Which?

Senator ROSALES. The reading. As I have stated in my speech the Philippine Hierarchy has declared that the reading of these novels will be against the Catholic teaching or the Canon Law. It is banned by the Catholic Hierarchy and banned by the church. Now, if we force Catholic students to read these books against their religious concept and religious conviction, does not Your Honor think the decision of the Barnette case is applicable to this bill?

Senator RECTO. According to Justice Douglas, who wrote a concurring opinion in the Barnette case, the object of the flag salute with the pledge was to inculcate respect for the flag, but under our bill, are we inculcating anything?

Senator ROSALES. Under the bill we are fostering nationalism. That is the purpose of the bill, but in the Jehovah's case, they are inculcating respect for the flag, which collided with their religious freedom.

Senator RECTO. In the ceremony of the flag salute, there is a pledge. Our bill provides none.

Senator ROSALES. Yes, but under this bill there are attacks against our religious faith.

Senator RECTO. But the gentleman admits that there is no pledge involved in the Senate bill. That is the difference between the Barnette case and our bill.

Senator ROSALES. I respect the opinion of the gentleman from Batangas.

Senator RECTO. Let us suppose that it is not the Philippine Hierarchy but Rome, I mean, the Holy Pope, the Holy See, that has decided by the reading of the books of Rizal is condemned by the Church, because of the provisions of the Canon Law, does the gentleman believe that because of this conflict between the Canon Law and our Constitution which enjoins that all educational institutions must be under the control and supervision of the State, because of certain specific public ends that must be attained, will Your Honor, as a citizen of the Philippines, place the Canon Law over and above our Constitution?

Senator ROSALES. Gentleman from Batangas, I think it is an admitted principle in American juris-

prudence that that freedom to act on religious belief has certain limitations, but the limitations as stated in this decision in the Barnette case must be to prevent grave and immediate danger to the interest of the State. There are no grave and immediate dangers to the interest of the State that will be endangered if these books are not read, as a matter of opinion. The State can limit action of the people belonging to any religion on matters of grave public interest.

Senator RECTO. So, your stand, Mr. Senator, is that in certain cases the Canon Law is superior to our Constitution?

Senator ROSALES. It depends gentleman from Batangas. If, for example, the law deals on public policy the Canon Law has to give way to the laws of the State, but as much as possible, according to established principles, the limitations must be confined to the least degree. While the State is superior, that State has guaranteed certain individual rights which appear in our Constitution.

Senator RECTO. I am not talking about the rights of the State or the Government, but on the conflict between the Canon Law and the Constitution. Do I understand the position of Your Honor to be that whenever there is a conflict between the Canon Law and the Constitution, the Canon Law shall prevail as far as you and the Catholics are concerned?

Senator ROSALES. The gentleman from Batangas did not understand what I said. It depends upon the conflict. Suppose in the Canon Law there is a provision which prohibits vaccination, but the State passed a law requiring every citizen to be vaccinated. On that point I agree with Your Honor that the law of the State will prevail because vaccination will protect the health of the general public. So I say it depends upon what the conflict will be.

Senator RECTO. Let us come to this very case. Suppose there is conflict between the provisions of the Canon Law condemning, as you say, the works of Rizal to a certain extent and the provision of the Constitution which authorizes the State to make them compulsory reading?

Senator ROSALES. What will prevail here, gentleman from Batangas, will be the provisions of the Canon Law because the provisions of the Constitution are protected by that provision of the Constitution which guarantees freedom of worship.

Senator RECTO. What provision of the Constitution?

Senator ROSALES. The provision that guarantees the freedom of religion.

Senator RECTO. Probably the gentleman is referring to the provisions that no law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. This bill does not provide for either thing.

Senator ROSALES. Broadly this case will come under that. For example, anything that is offensive to one's religion—that is covered by the protection of our Constitution but those provisions there as interpreted by our courts vis-a-vis on protection.

Senator RECTO. Let us examine concurrently this particular provision of the Constitution. Does this law prohibit the exercise of one's religion?

Senator ROSALES. I think so.

Senator RECTO. Why does Your Honor believe so?

Senator ROSALES. If I am forced to read something against my religion in order that I will be deviated from that religion, it is a sort of a limitation to the free exercise of one's faith.

Senator RECTO. Does this bill prohibit Your Honor to go to confession, to pray, to attend processions?

Senator ROSALES. No, but if I read those books I may not go to confessions, attend processions, etc.

Senator RECTO. Then the foundation of Catholicism is not very strong in you, Mr. Senator.

Senator ROSALES. I did not say I will but I said I may.

Senator RECTO. But the question is, does the bill prohibit Your Honor to go to confession, attend processions, pray, hear mass and believe in purgatory and in hell? The bill, I think, does not prohibit Your Honor to do or believe in those things. Let us have a sensible interpretation of that constitutional provision.

Senator ROSALES. The courts of justice have made already sensible interpretations and they made them applicable to this case.

Senator RECTO. Does this bill prohibit the free exercise and enjoyment of religious profession, to go to church, to hear mass and to go to confession?

Senator ROSALES. It does not.

Senator RECTO. Does the bill discriminate between Catholics and non-Catholics?

Senator ROSALES. For the information of the gentleman from Batangas, if we read the first amendment of the Constitution of the United States it is couched in general terms. As a matter of fact, and this is only my opinion, I believe that our Constitution is even more strict than the Constitution of the United States. But in spite of

that if we read the decision, for example, in the Barnette Case, describing the scruples of Jehovah witnesses not to be compelled to recite a pledge that is against their conscience, you cannot find by just reading the first amendment of the Constitution a specific provision which applies to that. It is only in broad interpretation of that that said provision gives protection to the Jehovah witnesses. As I said, if you read the Constitution of the United States you cannot find specific provision protecting those rights. It is only in the interpretation of the Supreme Court of the United States.

Senator RECTO. If the bill is within the authority of the State to approve, if it may be enacted into law under section 5 of Article XIV, General Provisions of the Constitution, and does not conflict with the provisions of section 7, Art. III of the Bill of Rights of the Constitution, in what sense can it be unconstitutional?

Senator ROSALES. That is where we differ. These provisions are in conflict with each other.

Senator RECTO. Does not the gentleman feel that he must first study carefully the question of constitutionality of this bill?

Senator ROSALES. As I said I am just a mere humble town lawyer. I do not pretend to know Constitutional Law, but after a research on the subject, I am convinced that this bill is unconstitutional.

Senator RECTO. The only way to test the constitutionality of the bill is to bring the appropriate action before the Supreme Court, and the only way we can test the constitutionality of this bill is to enact it into law.

Senator ROSALES. But there are other considerations aside from the constitutional question upon which we have based our objection to this bill, but if really that is Your Honor's opinion, I have my own opinion and even the opinion of the majority members of the Senate is that this bill is unconstitutional. Why should we risk the reputation of the Senate with legal luminaries like, of course, the gentleman from Batangas, Senator Laurel, Senator Tañada, Senator Paredes, Senator Sabido, Senator Sumulong, Senator Pelaez, Senator Alonto, Senator Primicias and everybody here? Why should we risk the reputation of this chamber? Does not Your Honor believe that we will be greatly embarrassed if we approve this bill with the legal luminaries, we have here in the Senate and this bill is afterwards declared unconstitutional by the Supreme Court with the President of the Constitutional Convention present in this hall now?

Senator RECTO. Mr. Senator, the situation is this. The gentleman from Samar, perhaps also the gentleman from Bulacan and the gentleman from Cebu, believe that the bill, if enacted into law, will violate the Constitution. Other members of the Senate believe the contrary. As far as this point of constitutionality is concerned, the gentleman knows that the final word lies with the Supreme Court.

Senator ROSALES. The gentleman is right.

Senator RECTO. There is no other way of having the final say of the Supreme Court except by enacting this bill into law, and that is the only way of solving these conflicting views as to whether the bill violates or not the Constitution. One opinion is as respectable as the other. Does not the gentleman believe, and I will reiterate my question, that the most sensible solution, practical and adequate, to this conflict is to lose no time passing the bill, and then after it has been enacted into law, to institute a test case before the Supreme Court?

I can assure the gentleman that as far as the supporters of the bill are concerned, I don't think any of them will resort to technicalities in the Supreme Court, so that the decision of the constitutional question could be facilitated and such decision of the highest court of the land will in the future serve as guidance for Congress in situations similar to the one in which we find ourselves. We must have in mind that the members of our Congress, with the exception of our few Moslem colleagues, are Catholics, and eighty per cent of our population are Catholics.

Senator ROSALES. I regret to differ from the gentleman from Batangas because Your Honor is making as a test case something which to us is very clear. If we want to make a test case, Your Honor knows that in experiments we use rats; we use rats for experimental purposes; we should not use human beings. What I mean is why don't we make a test case out of other questions, but not on this question which we consider important? Besides, gentleman from Batangas, of course I do not answer for the opinions of the rest of the members of the Senate. But as I said, what will be our position in case we approve this bill, if we are really of the conviction that this is unconstitutional, that is, on the supposition that the majority believe that this is unconstitutional, and we still approve it just to have the pleasure of having the Supreme Court pass upon its constitutionality? How about the prestige of the Phil-

ippine Senate, especially the present Senate constituted by men with brilliant legal minds?

Senator RECTO. Did the prestige of the United States Congress suffer when so many laws enacted by it were declared unconstitutional by the United States Supreme Court?

Senator ROSALES. Well, probably the situation is different in this particular case because we have here really, if I am permitted to say it, the best legal minds in the country.

Senator RECTO. When the gentleman says that he fears for the loss of prestige of Congress if the Supreme Court will come to declare this bill unconstitutional if enacted into law, the gentleman seems to be pretty sure that the Supreme Court will declare the law unconstitutional.

Senator ROSALES. That is just in case, I did not say pretty sure, but just in case. Why should we take that risk if in our honest conviction . . .

Senator RECTO. But that fear of the gentleman must be subordinated to the more important consideration that we need to have a decision by the only authority which has the final say on the matter, and that is the Supreme Court.

Senator ROSALES. As I have said, why do we have to use this case which is very important, dividing our people as I said in the course of my speech? Why don't we make experiments on smaller matters?

Senator RECTO. Does the gentleman believe the people will be divided if the bill is passed, but will remain united if the bill is not passed?

Senator ROSALES. I think so, gentleman from Batangas. If we, for example, stop consideration of this bill, passions will come down after two or three weeks. We will save the time and money of these people who did not use to come here before when we were deliberating on other bills. The gentleman has seen that during the last few days they have been coming here divided into camps.

Senator RECTO. Will the gentleman take offense if I say that the procedure suggested by the gentleman amounts to a delaying tactic?

Senator ROSALES. It is not. If the gentleman will allow me to say something on that, I will say that I am sincere. As a matter of fact, yesterday evening, the gentleman from Batangas, Senator Laurel is here, I approached the said gentleman. I talked to him, pleaded to him, if something can be done, if a solution can be found on this bill to

prevent the division of the people. I say that gentleman with all sincerity and with the concern that I have for my country.

Senator RECTO. And the only way is to postpone the consideration of this bill instead of facing fearlessly the situation?

Senator ROSALES. For example, if we find a happy solution in two or three days, we huddle together and we confer. Until now, we have not made a serious effort.

Senator RECTO. Does the gentleman have in mind a workable formula or solution?

Senator ROSALES. I have something in mind and I am willing to discuss it with the proponents of this bill.

Senator RECTO. Does the gentleman have any objection to revealing it now?

Senator ROSALES. Pardon me.

Senator RECTO. Do you have any objection to revealing now that formula?

Senator ROSALES. I don't think we can settle this question here right now. If we can huddle together in a friendly discussion and with the spirit of cooperation and purpose of preserving the unity of our country, I believe we can.

Senator RECTO. Do I understand that the gentleman has completely endorsed the statement of the hierarchy?

Senator ROSALES. Yes.

Senator RECTO. Completely?

Senator ROSALES. Yes.

Senator RECTO. So, the gentleman would be ready to answer interpellations on the conclusions and propositions of the "Pastoral," if not today, some other day, or tomorrow?

Senator ROSALES. Yes.

Senator RECTO. The gentleman holds himself accountable for everything that is said there in the Pastoral?

Senator ROSALES. Well, as I said, in matters of religion, gentleman from Batangas. Only in matters of religion. There are things which are matters of faith.

Senator RECTO. On this matter of the proposition of the Catholic hierarchy that in the works of Rizal, these two novels, there are passages that attack Catholic dogma, morals and other practices?

Senator ROSALES. Although as I have stated, gentleman from Batangas, the point that I have raised is on constitutionality, discussion of the Pastoral letter would only be academic. As far as I am concerned, that is final, conclusive. That needs no discussion, I believe in it. I follow it.

Senator RECTO. So the gentleman would be willing to yield on this point, on the validity of the conclusions and propositions of the "Pastoral."

Senator ROSALES. If we want to save the time of the Senate, I would appreciate it if I could be excused from discussing with you on that point, because I have said in my speech that discussion would only be academic. It will have nothing to do with my contention on the constitutionality of the bill because to me, to Catholics, that is final. It admits of no discussion.

Senator RECTO. That is, whether the assertions of the hierarchy are correct or not?

Senator ROSALES. It is a matter of faith, gentleman from Batangas.

Senator RECTO. Blind faith with respect to the conclusions of the hierarchy.

Senator ROSALES. Well, I think, in our religion it is easier to reach heaven if you do not philosophize too much, but rather if you rely more on faith. There are so many things in our faith, like the mystery of the Trinity, so many things which we cannot explain. We just follow them because it is our faith.

Senator RECTO. I will give you an example, just one. Suppose that the "pastoral" says that on such and such page of the *Noli Me Tángere* there are attacks against the Catholic dogma, morals, or faith, and then we verify the pages pointed to in the "pastoral", and we find no such attacks.

Senator ROSALES. We believe in the wisdom of the hierarchy. We believe in their interest in our faith, and we suppose, we presume, that they must have examined those parts before they include them in the pastoral.

Senator RECTO. Even if after examining the cited pages you find that there is nothing there that will support their contention?

Senator ROSALES. It will be, probably, a matter of opinion. You may say, for example, that this portion of the books cited by the hierarchy is not an attack on the dogma, but the Catholic hierarchy believes otherwise.

Senator RECTO. Suppose that the pastoral says that in that part there is an attack on the Holy Trinity, and then we examine that page and then find no words to that effect, that not even the words "Holy Trinity" are there? There is no matter of opinion involved.

Senator ROSALES. Suppose the hierarchy says it is an attack against the dogma. Between your opinion and the opinion of the hierarchy, at least on matters . . . with due respect to your opinion, I will subscribe to the opinion of the hierarchy.

Senator RECTO. Even if there is nothing there, provided the hierarchy says so?

Senator ROSALES. There must be something. As I said, we have faith in the hierarchy.

Senator RECTO. Suppose there is nothing, suppose the hierarchy made a mistake, a clerical error.

Senator ROSALES. Well, a clerical error, it was a mistake.

Senator RECTO. Your Honor would admit clerical errors of the hierarchy as matters of faith?

Senator ROSALES. As I said, gentleman from Batangas, we presume that there are also legal minds in our Philippine hierarchy, and I presume that whatever they have said in that pastoral letter is the product of careful study and deliberation.

Senator RECTO. So their judgment is definitely conclusive for you?

Senator ROSALES. As far as I am concerned, on matters of dogma.

Senator RECTO. Well, that is not a matter of dogma. When they say that on such page and such page there are such and such phrases against the dogma, and after verification it is found that there are no such phrases, what have you to say?

Senator ROSALES. As I said, it is a matter of opinion, between your opinion and the opinion of the hierarchy.

Senator RECTO. Well, thank you very much.
Senator RODRIGO. Mr. President, just for about ten or fifteen minutes. *(After a pause)* Well, I reserve my right for another date.

SUSPENSIÓN DE LA SESIÓN

Senator PRIMICIAS. Mr. President, I ask for suspension of the session of the Senate until this afternoon at five o'clock.

The PRESIDENT. Any objection? *(Silence.)* There being none, the session is suspended until five o'clock this afternoon.

Eran las 12:54 p.m.

REANUDACIÓN DE LA SESIÓN

Se reanuda la sesión a las 5:25 p.m.

The PRESIDENT. The session is resumed.

SEGUNDA LECTURA Y CONSIDERACIÓN DEL

S. NO. 436

Senator PRIMICIAS. Mr. President, I ask that we now consider Senate Bill No. 436.

The PRESIDENT. Consideration of Senate Bill No. 436 is now in order. The Secretary will please read the bill.

The Secretary:

AN ACT TO INCREASE THE NUMBER OF JUSTICES OF THE COURT OF APPEALS AND FOR OTHER PURPOSES, AMENDING FOR THIS PURPOSE

SENATE OF THE PHILIPPINES
LEGISLATIVE LIBRARY DIV.