

reformation of delinquent minors shall revert to the general fund and all expenditures for such purposes shall be provided by appropriations from the General fund.

El PRESIDENTE. Al Comité de Hacienda.

El SECRETARIO:

De los Senadores Primicias y Locsin (S. No. 483, 3.^{er} C. R. F.), titulado:

An Act exempting from the payment of all taxes and duties importations of articles and goods which are donations to religious, civic or charitable institutions.

El PRESIDENTE. Al Comité de Hacienda.

El SECRETARIO:

De los Senadores Primicias, Delgado y Locsin (S. No. 484, 3.^{er} C. R. F.), titulado:

An Act to amend sections two and three of Republic Act Numbered Thirteen hundred and seventy one. (Re schedule of fees for entrance into or departure from port of entry in the Philippines.)

El PRESIDENTE. Al Comité de Hacienda.

El SECRETARIO:

De los Senadores Primicias, Delgado y Locsin (S. No. 485, 3.^{er} C. R. F.), titulado:

An Act to establish a system of position classification and just compensation.

El PRESIDENTE. Al Comité de Servicio Civil.

El SECRETARIO:

De los Senadores Paredes, Alonto, López y Sumulong (S. No. 486, 3.^{er} C. R. F.), titulado:

An Act providing for the subdivision of the Tondo foreshore land into lots and the sale of said lots to their lessees or to bona fide occupants of said land, and for other purposes.

El PRESIDENTE. Al Comité de Agricultura y Recursos Naturales.

El SECRETARIO:

Del Senador Cea (S. No. 487, 3.^{er} C. R. F.), titulado:

An Act requiring importers of consumers goods to sell at least thirty per centum of their imports to Filipino retailers.

El PRESIDENTE. Al Comité de Comercio e Industria.

CONSIDERACIÓN DEL S. NO. 438

(Continuación)

Senator PRIMICIAS. Mr. President, I ask that we now resume the consideration of Senate Bill 438. The distinguished gentleman from Bulacán, Senator Rodrigo, has registered a turn to speak against the measure. I ask that he be now recognized.

The PRESIDENT. Resumption of the consideration of Senate Bill 438 is now in order.

Senator ZULUETA. Mr. President, I will reserve my right to speak tomorrow in the use of the privilege hour.

The PRESIDENT. The announcement of the gentleman from Iloilo is noted. The gentleman from Bulacán has the floor.

DISCURSO DEL SEN. RODRIGO EN CONTRA

Senator RODRIGO. Mr. President and gentlemen of the Senate:

It is my cherished hope, Mr. President, that the last four consecutive days that the Senate was not in session have provided sufficient respite for emotions and passions to calm down. I hope that now we can discuss this bill with more sobriety and objectiveness, limiting ourselves to the true merits of the issue, and avoiding recriminations, suspicions, sarcasms and personal accusations.

The issue in this case, Mr. President, is intimately linked with two of the most sensitive passions of man: his nationalism and his religion. All the more reason why we, in this Senate, should most carefully avoid resorting to statements and arguments which add fuel to emotions. Such arguments will merely tend to obfuscate reason. They will confuse and obscure the issue, instead of clarifying it.

I. POSTULATES

Therefore, Mr. President, may I venture to offer certain basic postulates which I suggest be conceded, or at least prescinded from, by both sides in the discussion.

1. That all of us, both those who favor and those who oppose this bill, are true Filipinos. All of us love the Philippines. All of us want to serve our country. We might differ at times in our ways and beliefs on how our country can best be served. Such is a natural consequence of freedom in a democracy, as differentiated from regimentation in totalitarian regimes.

2. All of us love and venerate Dr. José Rizal as our greatest national hero. Truth and justice demand that this postulate be conceded in the discussion of this bill. To say that a big sector of our Filipino people, by opposing this bill, is against Rizal, is to disparage not only that sector of our population, but to disparage the very standing of Rizal as our greatest hero by unanimous acclaim.

3. That all of us, both those in favor and those against the bill, are motivated by good faith and sincerity of conviction and purpose. Let us concede the postulate that no one in this case is moved by any ulterior motive, be it political or personal.

Every one acts from the purest of motives, in accordance with the honest dictates of his conscience.

I respectfully offer these postulates, Mr. President, as basic guides in our discussion of this bill, because only by proceeding from those postulates can we conduct our discussion with absolute clarity and candor, without inciting hatred, bitterness, suspicion and recriminations among our people.

II. THE ISSUE

And now, Mr. President, may I be allowed to clarify the real issue in this case. A clarification of the issue is most needed, because it seems evident that the real meaning, the real import of the issue on this bill is not yet fully grasped nor understood.

A. *What The Issue is Not*

Before I explain what the issue is, permit me to clarify what the issue is not.

1. The matter at issue, Mr. President, is not Dr. José Rizal. Dr. José Rizal's unparalleled heroism is not put to question here. Dr. Rizal's greatness, both as a man and a patriot, is not subject to any scrutiny. It is conceded and proclaimed by both sides

It is unfair to drag Dr. Rizal himself into this discussion. It is unfair to charge that all Filipinos who are against Senate Bill 438 are also against Rizal. That is unfair, not only to the opponents of this bill, but to Dr. Rizal himself. It is unfair to Rizal for anybody to shout to the four winds that, overnight, a large sector of our Filipino people has suddenly turned anti-Rizal.

And so I repeat, Mr. President, that the matter at issue is not Dr. Rizal, but Senate Bill 438 which was authored by Senator Recto.

2. The issue in this case is not whether *Noli Me Tangere* and *El Filibusterismo* should be completely banned or absolutely forbidden or buried into oblivion. No, Mr. President, nobody is asking that these books be completely banned or prohibited. We who are against Senator Recto's bill do not want these books buried in oblivion. On the contrary, we advocate freedom to read these books, in accordance with the conscience and free will of our people. All that we oppose is the arbitrary method proposed in the bill, as I shall explain in the course of my discussion.

As a matter of fact, Mr. President, I for one realize that our opposition to Senator Recto's bill has provided the best advertisement for the two novels of Dr. Rizal. I have no doubt that the sales of these two books have increased tremendously within the last few weeks.

I welcome that, Mr. President. I personally wish that more of our people will have the desire to read these books. But I am against compulsion. I am against regimentation. I am against the means proposed by the bill.

But our stand is not to kill or bury these books. 3. The matter at issue is not nationalism. The point of discussion is not whether we should have nationalism or not.

We are all for nationalism—that sane and rational type of nationalism which does not do violence to the Christian principle of universal justice and universal brotherhood. Yes, we are all for nationalism. But, we deny the assertion that true nationalism cannot thrive in our country unless the reading of *Noli Me Tangere* and *El Filibusterismo*, in their unexpurgated versions, is made compulsory in our schools.

To say that the compulsory reading of these novels is an indispensable prerequisite to love of country is to close our eyes to the heroism of the thousands upon thousands of our countrymen who gave up their lives in Corregidor and Bataan, as well as to the patriotism of numberless Filipino guerrilleros who fell in the hills and mountain fastnesses.

None of these heroes was compelled to read the *Noli* and the *Fili* in their unexpurgated version, but this did not leave a vacuum in their overflowing love of our country.

Therefore, Mr. President, the matter at issue is not nationalism, but the method proposed in Senate Bill No. 438.

B. *What The Issue Is*

Mr. President, now that I have clarified what the issue is not, permit me to clarify what the issue actually is.

The issue, I repeat, is Senate Bill No. 438. The issue is the constitutionality and wisdom of its provisions.

1. *Basic Conditions of the Bill*
Let us analyze these provisions. A close study of the bill will reveal that it imposes three basic and uncompromising conditions: (1) *Compulsory*; (2) *Unexpurgated*; and (3) *Discriminatory*.

Let me explain.
a. *Compulsory*
The compulsory aspect of the bill does not need much explanation. It seeks to compel all schools to compel their students to forcibly read these books.

There are two targets of the proposed compulsion: (1) The schools; and (2) the students who will be compelled by the schools.

This distinction and clarification is not purely academic. It has practical implications.

It is possible that the school does not object to the compulsion, but the students object. In this case the students are denied their freedom and right. On the other hand, it is possible that the students or some of them do not object, but the school objects. In this case the school is deprived of its freedom and right. And it is possible that both the school and the students object, in which case both are deprived of freedom.

This, Mr. President, is the true extent and implication of the compulsory aspect of this bill.

b. *Unexpurgated*

And now let us go to the other aspect, namely, unexpurgated. Accordingly to my understanding of the bill, every school, whether public or private, sectarian or non-sectarian, will be compelled to compel their students to read the whole unexpurgated texts, including those which, according to the rules of their Church, are against their religious conscience. No school will be allowed to eliminate those portions which hurt religion, even if those portions have no relation with fostering nationalism.

That, according to my understanding, is the import of the second condition imposed by the bill.

c. *Discriminatory*

And now, the third element: discriminatory—discriminatory against the other works of Rizal himself and discriminatory against the works of our other heroes and patriots.

Only the reading of these two novels is made compulsory by this bill. Other works of Rizal which can also foster nationalism but not hurt religion, are not made compulsory. Works and writings of other heroes and great Filipinos are not made compulsory. Not even the reading of our Philippine Constitution is made compulsory.

Only these two novels which, regrettably, are considered by the Catholic Church as objectionable for general and indiscriminate reading, are singled out in the bill.

Why this discrimination?

The issue, Mr. President, revolves primarily around these three basic conditions: *compulsory*, *unexpurgated*, and *discriminatory*.

III. MY STAND

On the basis of this issue, permit me now to clarify my stand.

A. *Nationalism and Religion*

I agree with the proposition that we should try to foster and develop healthy nationalism among

our people. But nationalism is not the only laudable attribute of the Filipinos as a people. Side by side with our nationalism is our religion.

As I said in my privilege speech last week, a vast majority of our people are "at the same time, Catholics and Filipino citizens. As such, they have two great loves: their country and their faith. These two loves are not conflicting loves. They are harmonious affections, like the love of a child for his father and for his mother."

This is the basis of my stand. Let us not create a conflict between nationalism and religion; between the government and the church.

I would object to any bill which, in fostering nationalism, should invade the realm of religious conscience; just as I would object to any move of the Church which, in fostering religion, should invade the purely temporal affairs of government.

I would object, for example, with the same firmness with which I am objecting now, if the Catholic Church were to make compulsory on Filipino Catholics the reading of a book which, while it fosters religion, attacks certain accepted principles and precepts of our country and our government. While I submit to Church authorities in matters relating to my conscience as a Catholic, I will not allow an invasion by them of my right and conscience as a Filipino.

Render unto Caesar the things that are Caesar's, and to God the things that are God's.

B. *Constitutional Limitations of Government*

Another basic consideration which I hold sacred in guiding my actions as a senator, is the constitutional limitations on the power of government.

Power is not inherent in government. All powers of government are derived from the governed; from the people. But in granting powers to government, the people reserved to themselves, not only collectively but individually, certain basic rights which the government cannot trespass or violate. Among these are the right to the *free exercise of religion* and the *free exercise and enjoyment of religious profession and worship*, without discrimination or preference (Art. III, Sec. 7, Const.); and the right to life and *liberty* and the *equal protection of the laws* (Art. III, Sec. 1, Const.).

Our distinguished colleague, the gentleman from Samar, Senator Rosales, had already explained at length how this bill is violative of certain constitutional guarantee in our Bill of Rights. Permit me, however, to add a few more humble observations, later in my speech.

At this juncture, I shall limit myself to laying this down as one of the basic points in my stand.

Aside from the Bill of Rights, I agree with Senator Rosales that this bill is also violative of the Christian and democratic precept that the primary and natural right and duty to educate children belongs, not to the government, but to the parents.

And I wish to add that this bill, in its implementation, will violate another constitutional provision, namely: that *no public money shall be appropriated, applied or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion* (Art. VI, Sec. 23 (3) Const.).

This, I shall also discuss later. For now, I just lay this down as a basic point in my stand.

C. Wisdom of Bill

Aside from the constitutional and democratic aspect, I also question the wisdom of the bill.

As legislators, it is not enough to satisfy ourselves that a proposed legislation is constitutional. It is also our bounden duty to examine its *wisdom*. I shall attempt to show that this bill fails also on this count.

D. Against Rizal's Principles

I propose to show likewise that this bill is contrary to the very principles enunciated by Dr. Rizal himself; and that this is violative of the very precepts which he espoused.

E. Other Means

And lastly, I shall attempt to show that there are other ways and avenues open to the Senate whereby the objectives of this bill, with which I agree, can be attained.

IV. REBUTTAL

But, before I go into the discussion of these points, permit me to first clarify and rebut certain arguments already presented during the discussion of this bill.

A. Teaching of Tagalog

(1) It was claimed that this bill is *in pari materia* or analogous to the law making compulsory the teaching of Spanish and the Filipino National Language.

I deny this assertion. This bill is not *in pari materia* with those laws.

First of all, the teaching of Tagalog and Spanish does not violate religious conscience. It does not run counter to the teaching of any Church or sectarian denomination.

This is the basic difference. But we might also add the following points of distinction.

The law which enjoin the teaching of Spanish and the Filipino National Language merely lay down a general legislative directive. Those laws do not go as far as to specify the particular textbooks that shall be used. This matter is left, as it should be, to executive implementation by educational technicians and experts.

If we were to make this bill really analogous with those two laws, this bill should merely provide that the ideals of freedom and nationalism for which our heroes, from Daguhoy and Lapu-Lapu to Rizal, Del Pilar, Bonifacio and Mabini lived and died, should be taught in all our schools. But we should leave the implementation to our educational experts and technicians.

And so, Mr. President, I submit that the laws which make compulsory the teaching of the Filipino National Language and Spanish are not *in pari materia* with this bill.

B. Compulsory Military Service

(2) I also beg to disagree, Mr. President, with the proposition propounded here that the law on compulsory military training, Com. Act No. 1, known as the National Defense Law, is *in pari materia* with the present bill.

I claim that the decision of our Supreme Court in *People vs. Lagman* and *People vs. de Sosa* (66 Phil. 13) is not pertinent to our issue.

First of all, in those two cases, neither of the two defendants claimed that registration in military service was against their religious conscience. The only allegation of De Sosa was that he was fatherless and had a mother and a brother eight years old to support, and the only excuse of Lagman was that he had a father to support, had no military leanings, and did not wish to kill or be killed.

The issue of religious freedom was not an issue in those two cases.

On this point alone, those two cases are not applicable to the basic issue in the present controversy regarding Senate Bill No. 438.

But there is another important point of distinction between those two cases and the issue which now confronts us. While compulsory military service is not only *necessary* but *indispensable* in the defense of the state, it has not been shown, and I do not think it can be shown, that compulsory reading, in their unexpurgated text, of *Noli Me Tangere* and *El Filibusterismo*, in all public and private schools, colleges and universities, is either necessary or indispensable to foster nationalism and the ideals of Dr. Rizal and our other heroes.

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The Supreme Court itself, in those two cases, laid down as a premise for its decision the *indispensable character* of compulsory military service. Let me quote from said decision: "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."

Now, can we honestly state that the enactment of Senate Bill No. 438 lays claim to the same necessity and indispensableness in the fostering of the ideals of freedom and nationalism? Need I repeat the magnificent demonstration already shown by our people of their dedication to the ideals of freedom, without benefit of the compulsory provision of this bill.

Therefore, Mr. President, I beg to deny the assertion that the National Defense Act is *in pari materia* with the present bill. I also deny the proposition that the decision of our Supreme Court in the cases of *People vs. Lagman* and *People vs. De Sosa* is material to the present issue.

C. The Rotten Apple

(3) I wish to clarify and rectify, Mr. President, the unfortunate analogy between the compulsory reading of the two novels of Dr. Rizal, and the compulsory eating of an apple which is partly rotten.

I call this analogy unfortunate, first, because I do not consider it befitting and seemly to compare this two books with a rotten apple; and, secondly, because the analogy in substance is not appropriate.

I remember that this unfortunate analogy came up during the public hearings.

Let me explain why this analogy is not applicable to the Recto bill.

First, the eating of a rotten apple does not violate religious conscience. Maybe, the eating of the forbidden apple in the Garden of Eden is more applicable to the present issue, but I would not extend the analogy that far.

I think that a more pertinent analogy would be if someone were to compel a Catholic to eat meat on Good Friday or other days of abstinence; or if somebody were to compel a devout Moslem to eat pork.

These examples would be more apt, because they involve violation of religious conscience.

Another argument advanced in connection with the analogy of the rotten apple, is that the one who is compelled to eat is not necessarily compelled

to swallow even the rotten portion. It is claimed that, in the same manner, compulsory reading of the *Noli* and the *Fili* does not necessarily compel acceptance of the portions thereof which are against religion.

Again, the analogy suffers on this point.

In the case of the apple, a man can make use of other senses to examine and discover the rotten portions, before he even bites the apple. He can make use of his sense of sight, his sense of touch, and even his sense of smell to pinpoint the rotten parts. This preliminary examination will not cause him any harm.

But, in the case of reading, it is different, because it is the reading itself that leads us to the discovery of the objectionable portions of the books, and it is this very reading that causes the damage.

It seems very clear to me that this analogy does not hold water. It is an unfortunate analogy.

D. Reading Not Acceptance

(4) Permit me to rebut the argument advanced in defense of the bill to the effect that, while the reading is compulsory, the acceptance of the thing read is not. Therefore, the argument goes, there is no harm in compelling the reading.

Mr. President, this is a very dangerous policy for the Senate to lay down. If this policy will be followed as a precedent, then we shall open the door to compulsory reading of even Communist or subversive literature; for it can always be claimed that, while we compel the reading, we do not compel acceptance of the ideas.

E. Let Supreme Court Decide

(5) The argument was also raised that, since the constitutionality of this bill is put in question, then perhaps the best thing for the Senate to do is to pass this bill into law, so that its constitutionality can be tested and decided by the Supreme Court.

I cannot believe, Mr. President, that this argument was advanced with seriousness.

First of all, legislators should not "pass the buck" to the Supreme Court in matter pertaining to the constitutionality of a bill pending before the Congress. It is our bounden duty to make our own studies and to act in accordance with our own judgments, as our conscience dictates.

When I took my *oath of office* as senator of this Republic, I solemnly swore, among other things, that "I will support and defend the Constitution of the Philippines." That is a duty imposed upon myself; and therefore a duty which I myself have to perform. I should not shirk that duty. I

should not wash my hands, and pass that burden to the Supreme Court.

And, as I already stated from the beginning of this speech, my decision on whether to vote for a bill or not is based not only on the constitutionality of the proposal, but on its wisdom.

I shall show later why I believe this law to be unwise.

V. ARGUMENTS

Mr. President, now that I have rebutted and clarified these points, permit me to present my arguments in support of my stand.

A. *Constitutionality*

I shall first discuss the constitutional aspect. While Senator Rosales had already discussed this, Senator Rosales himself announced that there are certain aspects which he would want me to elaborate upon.

1. *Religious Freedom*

Permit me to first discuss this on the basis of Sec. 1, sub-par. 7, Art. III (Bill of Rights) of the 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."

It was pointed out, or at least suggested, by Senator Recto that the bill does not prohibit the free exercise of religion or the free exercise and enjoyment of religious profession and worship, because the bill does not seek to prevent or prohibit any religious act, like attending processions or going to mass on Sundays. Therefore, according to this line of reasoning, this bill does not violate the aforementioned constitutional guarantee.

I beg to disagree with this argument. The freedom guaranteed by this provision is not only the freedom to act but likewise the *freedom not to act* in accordance with one's religious belief.

Permit me to read from the book entitled "Constitution of the Philippines" by Tañada and Fernando:

"It would follow, as the case of West Virginia Board of Education v. Barnette shows, that not only the freedom to act but likewise the *freedom not to act* in accordance with one's religious beliefs may find shelter in the religious freedom guaranteed by the Constitution."

On this basis, and in the light of the pronouncement in the Pastoral of the Philippine Catholic Hierarchy, I respectfully submit that this bill would violate the freedom to the free exercise of religion, because it will deprive Catholic citizens of the "freedom not to act" in accordance with their religious beliefs.

2. *Public Money*

I invoke another constitutional provision which, I humbly believe, will likewise be violated by this law. I refer to Art. VI, Sec. 23 (3), which reads as follows:

"No public money or property shall ever be appropriated, applied, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion * * *."

While it is true that the bill itself does not provide for any appropriation or expenditure of public money, still such expenditure is inevitable and indispensable in the implementation of the bill. Public money will have to be used for the printing or purchase of the required number of copies of these books, in order to implement the compulsory reading thereof by students in all schools, colleges and universities.

I maintain that this would violate the aforementioned provision of our Constitution. The prohibition against the use of public money for the use, benefit or support of any sect, church, denomination, sectarian institution or system of religion, necessarily carried with it the prohibition to use said public money to the *damage or detriment* of any sect, church, denomination, etc. It would be preposterous and unthinkable to propose that, while the Constitution prohibits the use of public money to favor any sect or religion, it would allow the use of public money to prejudice any religion. To prejudice one religion is to favor the other religions.

Therefore, insofar as this bill, in its implementation, will necessarily entail the use of public money to the prejudice, directly or indirectly, of the Catholic religion, and to the advantage of other religions, this bill violates the aforementioned Art. VI, Sec. 23 (3) of our Constitution.

But some may question the correctness or wisdom of the pronouncement contained in the Pastoral of the Philippine Catholic Hierarchy. As a matter of fact, the accuracy of the Pastoral, insofar at least as certain alleged typographical errors are concerned, was already raised during the discussion of this bill.

In answer to those who would question the correctness and wisdom of this Pastoral, may I again quote from the book of Tañada and Fernando (Constitution of the Philippines, Vol. 1, pages 284-285)

"It is not within the competence of the government to inquire into the truth or validity of a religious doctrine. This is the holding in the American case of *United States vs. Ballard*. Its reasoning is likewise applicable to the

Philippines as may be apparent from the pertinent excerpts of the opinion in the case.

"Freedom of thought, which includes freedom of religious belief, is basic in a society of free men. West Virginia State Board of Education vs. Barnette, 319 U. S. 624, 63 S. Ct. 1178, 87 L. ed. 1628, 147 A.L.R. 674. It embraces the right to maintain the theories of life and death and of the hereafter which are rank heresy to followers of the orthodox faiths. Heresy trials are foreign to our Constitution. Many may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be beyond the ken of others. Yet the fact that they may be made suspect of mortals does not mean that they can be made suspect before the law. x x x The Fathers of the Constitution were not unaware of the varied and extreme views of religious sects, of the violence of disagreement among them, and of the lack of any one religious creed on which all men would agree. They fashioned a charter of government which envisaged the widest possible toleration of conflicting views. Man's relation to his God was made no concern of the state. He was granted the right to worship as he pleased and to answer to no man for the verity of his religious views. The religious views espoused by respondents might seem incredible, if not preposterous, to most people. But if those doctrines are subject to trial before a jury charged with finding truth or falsity, then the same can be done with religious beliefs of any sect. When the triers of fact undertake that task, they enter a forbidden domain. The first Amendment does not select any group or any one type of religion for preferred treatment. It puts them all in that position."

In the light of this opinion and ruling, I respectfully submit, Mr. President, that it is "not within the competence of the (Senate) to inquire into the truth or validity of a religious doctrine." It is not within our competence, as a governmental legislative body, to pass upon the wisdom or validity of a pronouncement by competent Church authorities, regarding a rule of religious conscience which is applicable only to the members of that Church. Some among us may individually disagree with the wisdom and soundness of the pronouncement, but we, collectively acting as the Senate of the Philippines, may not nullify that pronouncement by the Catholic Hierarchy collectively acting as a ruling agency of the Catholic Church. Else, we shall be transgressing the fundamental principle of separation of Church and State.

3. Supervision and Regulation by State

Now, Mr. President, I come to the next constitutional provision which was mentioned and discussed in connection with the constitutional validity of this bill. I refer, Mr. President, to the provision of Article XIV, Sec. 5, of the Constitution, 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. x x x"

The question was raised on whether the word "regulation" is or is not synonymous with the word "control". It had been propounded that dictionaries, including Webster's International Dictionary, consider these two words synonymous.

I will not enter into a disputation on dictionary meanings, although it can be argued that even dictionaries do not consider the meanings of these two words as exactly identical and coextensive. But I will not quibble on that.

What I do say is that, in the interpretation of words found in our Constitution, we should not be guided by the dictionary alone.

Our first rule of interpretation should be to correlate the article which we are studying with other articles of the same Constitution. Another rule is to interpret the provision in harmony with the basic principles of our democratic form of government.

Both the words "regulation" and "control" can assume varied degrees of meaning; varied extents of comprehension, depending on different circumstances.

For example, supervision and control in totalitarian regimes have a vastly different meaning from supervision and control in a democratic country like ours.

Now let me go into my analysis of the provision.

While this provision places educational institutions under the supervision and subject to regulation by the State, the extent of such supervision and regulation is delimited by other provisions of the same Constitution, especially by the *Bill of Rights*. It is delimited by Article III, Sec. 1, which guarantees the right of every individual to life and liberty. It is delimited by Article III, Sec. 7, which guarantees to every individual the free exercise of his religion. It is delimited by Article VI, Sec. 23 (3), which prohibits the use of public money to, directly or indirectly, benefit and, as I explained, prejudice any sect, church, or religious denomination. It is delimited by Article II, sec. 2, which recognizes the natural rights of parents to educate their children.

And it is limited by the very nature of democracy itself. No one can claim that the power of government over the education of our children is complete and absolute in a democracy like ours. Such kind of power is found only in totalitarian regimes where the State is considered most powerful and citizens exist only for the State.

This is repugnant to the underlying philosophy of our democratic form of government, which enunciates that the individual does not exist for the state, but the state for the individual.

In view of these considerations, Mr. President, I respectfully submit that the power of supervision and regulation over educational institutions granted to the State by our Constitution, is *not complete and absolute*. That power is limited by the other constitutional provisions which I have already mentioned as well as by the underlying principles of democracy. It is my humble but well considered opinion that, in the light of these limitations, enactment by the Senate and by Congress of Senate Bill No. 438 will violate the Constitution.

VI. WISDOM

Now that I have discussed this bill from the point of view of constitutionality, I shall discuss another very important consideration. That is the *wisdom* of this bill.

I will not discuss the great harm that this bill will produce on our national unity, because Senator Rosales had already delved into that, and that was the subject of the privilege speech which I delivered last week. Neither will I devote time to the apprehension expressed by some that the presentation and consequent discussion of this bill might deprive Congress of the necessary time to the solution of our pressing economic and unemployment problems. That is alien to the intrinsic merits of this bill. Neither will I voice the observation made by many that this bill might result in embarrassing President Magsaysay and this administration, and perhaps even the Nacionalista Party. That involves partisan politics which is not proper for discussion in this august body.

I shall, however, present other practical considerations which militate against the wisdom of this bill.

A. Compulsion Unwise

My first practical consideration is the wise educational policy that teaching is better accomplished by an appeal to reason rather than by compulsion and threats of punishment. This basic principle was enunciated by no less than the distinguished

sponsor of this bill, Senator José P. Laurel, in his book entitled "Educational Orientation for Filipinos" (page 34). Permit me to quote Senator Laurel.

"A set of principles designed to formulate a way of life for a free people must perforce be didactic in nature rather than legislative. It must be based on an appeal to reason and the conscience and not upon threats of punishment, for the sense of right and the force of tradition often far outweigh the most exacting legal sanctions."

I agree with this principle enunciated by Senator Laurel. I agree that the formulation of a way of life for a free people must perforce be didactic in nature rather than by legislation; and that it must be based on an appeal to reason and the conscience and not upon threats of punishment. On this ground, Mr. President, I respectfully submit that Senate Bill No. 438, in so far as it seeks to use legislation, compulsion and punishment in order to attain certain laudable objectives, is pedagogically unwise.

B. Religious Dissensions

Another practical consideration which I wish to lay down before this august body is that this bill, if enacted into law, will inevitably give rise to religious discussions, disputations and recriminations among students and perhaps even among teachers and parents. Anyone who has read these two novels will readily see that the portions of these books which put to ridicule or to doubt certain religious dogmas, teachings and practices of the Catholic Church, will inevitably give rise to taunts and jokes and slurs. They will give rise to what we call in the Filipino language "kantiyawan" or "tudyuhan." What will be the result of this? I shall not give the answer myself. I shall again quote from Senator Laurel in his same book: "I also wish to observe that there is no subject more delicate than religion, the discussion of which is likely to excite passions and make people gladiators-like, fly to arms, in mortal combat." (Page 44).

I agree with this observation of Senator Laurel, Mr. President. If for this consideration alone, we should examine our conscience a hundred times before we decide to enact this bill in its present form.

There are other practical considerations, Mr. President; but I shall not impose on the courtesy of the Senate by mentioning all of them, because I do not consider them as important as the two I have already mentioned.

VII. VIOLATES PRINCIPLES OF RIZAL
And now, Mr. President, I come to my next basic proposition, namely: that Senate Bill No.

438 is violative of the very principles for which Dr. José Rizal lived and died.

A. Freedom and Liberty

I think there can be no conflict on the fact that Dr. Rizal was our greatest exponent of liberty. Freedom and liberty, not only for our nation as a collective group, but also for our people individually, was the consuming desire of Dr. Rizal.

Considering this fact, can we honestly say that the compulsory nature of Senate Bill No. 438 is not repugnant to this very principle which was handed down to us by our hero? I shall not give my own answer. I just propound the question for all of us to answer in our conscience.

B. Solidarity

Another obsession of Rizal was the solidarity of our people. Even the newspaper which he, together with Del Pilar and other great Filipinos, published was named "La Solidaridad", for unity.

Mr. President, considering the threat of this bill to our unity as a nation and to our solidarity as a people, can we honestly say that passage of this bill will not violate that very unity espoused by Rizal?

C. Objective of Rizal

Finally, Mr. President, let us consider the purpose and objective of Dr. Rizal when he wrote these two novels.

The purpose of Rizal was to expose and to cure certain social maladies which existed in his time.

In the *dedicatoria* of *Noli Me Tangere*, Rizal says the following:

"Regístrase en la historia de los padecimientos humanos un cáncer de un carácter tan maligno que el menor contacto le irrita y despierta en él agudísimos dolores. x x x"

"Deseando tu salud que es la nuestra, y buscando el mejor tratamiento haré contigo lo que con sus enfermos los antiguos: exponíanlos en las gradas del templo para que cada persona que viniese a invocar a la Divinidad les propusiese un remedio."

In Rizal's letter "Al Excmo. Sr. D. Vicente Barantes", which was published in "La Solidaridad" on February 15, 1890, Rizal stated very clearly that his purpose in writing *Noli Me Tangere* was to cure and reform the corruptions which existed at that time. Let me quote the pertinent portion of this letter.

"x x x Y por lo mismo que esta corrupción existe, he escrito mi *Noli Me Tangere*, pido reformas para que lo poco bueno que hay, se salve, y lo malo se redima. Si mi país fuese una república como la de Platón, ni hubiera escrito, ni el *Noli Me Tangere* hubiera tenido el éxito que tuvo ni se necesitarían reformas, porque para qué quiere medicinas el que está sano?"

¿Para qué quiere medicinas el que está sano?
Why should a healthy man need medicine?

It is clear that, when Rizal wrote this novel, he had a definite objective: to cure the cancerous maladies which existed during his time.

I admit, as a historical fact, that, during Rizal's time, many abuses were committed by the friars.

But times and conditions have changed. While, in Rizal's time, the friars and the high dignitaries of the Catholic Church were nationals of the colonizing power, at present the vast majority of our priests and Bishops and Archbishops are our own Filipino countrymen. While, in Rizal's time, there was a virtual union of Church and State, and the Spanish friars had a direct participation in the then disintegrating colonial government, at present, under our Constitution, there is separation of Church and State. While, in Rizal's time, the Catholic religion was perhaps used as a shield to hide the abuses of tyrannical officials, at present this religion is a strong shield of our country and our people against the onslaughts of atheistic communism.

Let me again quote from the book of Senator Laurel entitled "Educational Orientation for Filipinos".

"Then four centuries of association with Western peoples gave the Filipinos the overlay of Christian civilization that is now theirs, forever, and which is their strong shield against the onslaught of a violent and atheistic ideology." (Page 11)

In the light of this radical change, I do not suppose that even Dr. Rizal, if he were alive today, would want to hurt and weaken this religion which, instead of being a shield for abuses, is now a shield against enemies of freedom and democracy.

E. Rizal's Retraction

But of course the strongest argument is the *retraction* of Dr. Rizal when he was at the threshold of death. In his own handwriting, he declared the following:

"Me declaro católico y en esta Religión en que nací y me eduqué quiero vivir y morir.

"Me retracto de todo corazón de cuanto en mis palabras, escritos, impresos y conducta ha habido contrario a mi cualidad de hijo de la Iglesia Católica. Creo y profeso cuanto ella enseña y me someto a cuanto ella manda. Como enemiga que es de la Iglesia, como sociedad prohibida por la Iglesia. Puede el Prelado Diocesano, como Autoridad Superior Eclesiástica hacer pública esta manifestación espontánea mía para reparar el escándalo que mis actos hayan podido causar y para que Dios y los hombres me perdonen.

Manila 29 de Diciembre de 1896

(Fdo.) JOSÉ RIZAL"

As far as I am concerned, Mr. President, this retraction of Dr. Rizal is an established fact.

Even the distinguished gentlemen from Batangas and Quezon, Senator Recto, impliedly but definitely admitted the fact of Dr. Rizal's retraction, when he stated on the floor of the Senate that Dr. Rizal, before he died, and through the aid of his Jesuit professors, went to the sacrament of confession.

Senator RECTO. Mr. President, will the gentleman yield to a question on that point?

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

Senator RODRIGO. Certainly.

Senator RECTO. Will the gentleman again read that part which says, "Me declaro católico . . ."

Senator RODRIGO. "Me declaro católico y en esta Religion en que nací y me eduqué quiero vivir y morir."

Senator RECTO. Will you please translate that into English?

Senator RODRIGO. Well, I think the gentleman from Batangas is a better . . .

Senator RECTO. That is for the audience, because I will propound my questions in English, and they may not be understood properly unless that part, that particular part which says, "quiero vivir en esta religión," is translated.

Senator RODRIGO. I will translate this after I have finished my speech, because there are only four pages left.

Senator RECTO. No, no, no; that particular phrase only.

Senator RODRIGO. "I declare that I am a Catholic and in this religion in which I was born and educated I want to live and die."

Senator RECTO. That retraction was signed shortly before midnight, 30th of December.

Senator RODRIGO. It says here, "29 de Diciembre."

Senator RECTO. Yes, but shortly before midnight, according to the Jesuits' report. He was shot at 7:30 or 7:15 on the 30th of December; that is, he was executed almost seven hours after he had made that alleged retraction, and in that retraction he said not only that he wanted to die as a Catholic, but also to live as a Catholic. Why did they shoot him, after he was made to say that he wanted to live?

Senator RODRIGO. Mr. President, I myself do not know why they killed him. I condemn them.

Senator RECTO. Was not the Catholic church in the Philippines behind the execution of Rizal?

Senator RODRIGO. I deny that. According to my knowledge of history, it was the Spanish Government. Perhaps, the Spanish Government was influenced by some unscrupulous friars. I also condemn those friars.

Senator RECTO. Not only influenced; they were completely dominated by the religious orders in the Philippines so much so that the gentleman must know what I know to be history. On the 29th of December, after he had been sentenced to death, his mother went to Archbishop Nozaleda to intercede or to ask for the pardon of Rizal, and Archbishop Nozaleda answered her "I can give you the entire Philippines but not the life of Rizal."

Senator RODRIGO. Now, Mr. President, and gentleman from Batangas and Quezon, may I finish my speech. After all, that was the customary procedure. Senator Laurel spoke for three days and I did not interrupt him.

Senator RECTO. But I asked permission from the gentleman, and he gave it.

Senator RODRIGO. (*reading*)

"Me declaro católico y en esta religión en que nací y me eduqué quiero vivir y morir. Me retracto de todo corazón de cuanto en mis palabras, escritos impresos y conducta ha habido contrario a mi cualidad de hijo de la Iglesia Católica. Creo y profeso cuanto ella enseña y me someto a cuanto ella manda. Abomino de la Masonería como enemiga que es de la Iglesia y como sociedad prohibida por la Iglesia. Puede el Prelado Diocesano, como autoridad superior eclesiástica, hacer pública esta manifestación espontánea mía para reparar el escándalo que mis actos hayan podido causar y para que Dios y los hombres me perdonen.

Manila, 29 de diciembre de 1896

(Fdo.) JOSÉ RIZAL"

This retraction of Rizal might well be considered his *last will and testament*.

"I retract, he said, with all my heart whatever in my words, writings, publications and conduct has been contrary to my status as a son of the Catholic Church." And Rizal continues: "The Diocesan Prelate, as Superior Ecclesiastical Authority, may make public this spontaneous manifestation of mine in order to repair the scandal which my acts might have caused."

In the face of this retraction of Dr. Rizal, would we not be violating this very last will and testament of our national hero, if we make compulsory the reading of the unexpurgated texts of his two novels, including the portions which are "contrary

to his status as a son of the Catholic Church", which he himself retracted?

I leave the answer to this question to our individual judgment and conscience.

I just want to state that, in honoring and venerating Rizal, let us make sure that we do not violate the very principles he stood for; that we do not stray from his purposes and objectives; and that we do not go contrary to his most sacred desires.

VIII. WHY THE RUSH?

And now, Mr. President, permit me to go to another point. I shall lay down this point in the form of a rhetorical question: Why the sudden rush in the presentation of Senate Bill No. 438; and why the sudden excitement for its immediate approval?

If the purpose is to foster nationalism, are our people so wanting and so lacking in love of country to justify this frantic haste?

And if our people lack nationalism, why was it discovered only now—all too suddenly? Why was this bill not presented last year, or two years or four years or six years ago? Why only now; and, I repeat, why all too suddenly?

But that is just in passing, Mr. President.

IX. ALTERNATIVE FORMULAE

As a final point, I wish to state that my stand regarding this bill is not purely negative. I do not merely oppose the bill for, as I have always said, I agree with its objective. But I oppose the method proposed.

And in opposing the method, I wish to submit other methods which, to my mind, can achieve the same objective without producing the same dire consequences.

Among the methods that come to my mind are the following:

(1) Make it compulsory in all schools, colleges and universities, whether public or private, to have sufficient copies of these two novels in their libraries; and make them available to their students; or

(2) Allow reasonable expurgation of those portions and passages which are offensive to religious conscience, but which have no bearing on Rizal's principal message of nationalism.

In this connection, I wish to state that even Ambassador Ernesto Giménez Caballero, whose speech about the Noli and the Fili was read by Senator Sabido in conjunction with the sponsorship speech of Senator Laurel—even Amba-

sador Caballero, in that speech, suggested slight expurgations. Let me quote from the speech.

"Yo hoy pondría los dos libros de Rizal 'Noli me tangere' y 'El Filibusterismo' como lectura nacional en las Escuelas españolas. Con muy ligeros expurgos de cosas circunstanciales."

(3) Include these two novels, in their unexpurgated versions, in the list of required reading matter in schools. By required reading, as differentiated from compulsory, is meant the following: that these two novels be included in a list of five or six other works of Rizal and other national heroes and patriots; and out of those five or six, require the students to read at least two; or

(4) My suggestion regarding footnoted editions, if such suggestion can be found practical and acceptable.

This, Mr. President, are other methods which have occurred to me, which can achieve the same objective of this bill. I am sure that other members of the Senate can still think of other methods.

So why the haste in ramming this bill through in its present form.

X. CONCLUSION

In the name of our national unity, Mr. President; in the name of our people the vast majority of whom are Catholics who will be torn between their two loves and two loyalties if this bill is enacted into law; in the name of democracy and freedom; in the name of the inalienable rights reserved to themselves by our people in our Constitution; in the name of justice, Mr. President, I oppose the approval of this bill in its present form.

While the Catholic citizens of this country constitute the majority of our people, those Catholic citizens are not asking that we grant them any advantage over our other countrymen of different religious persuasions. All that they ask for, Mr. President, is equal treatment.

If the members of Jehovah's Witnesses cannot be compelled to salute our national flag because it violates their religious conscience; if the members of a certain religious sect in Cotabato cannot be compelled to take up folk dancing because it violates their religious creed; all that the Catholics ask is that they be accorded the same treatment.

Mr. President, is that too much to ask?

SUSPENSIÓN DE LA SESIÓN

Senator PRIMICIAS. Mr. President, the distinguished gentleman from Batangas and Quezon will now consume his announced turn to speak in favor

of the bill, but before he takes the floor, I ask for the suspension of the session for five minutes.

The PRESIDENT. If there is no objection, the session is suspended for five minutes.

Eran las 11.20 a.m.

REANUDACIÓN DE LA SESIÓN

Se reanuda la sesión a las 11:35 a.m.

El PRESIDENTE. Se reanuda la sesión.

Tiene la palabra el caballero de Batangas y Tayabas.

DISCURSO DEL SEN. RECTO A FAVOR

Senator RECTO. Mr. President and gentlemen of the Senate: The other day I understood from the speech of Senator Rosales from Samar that he and Senator Rodrigo had divided between themselves the topics with which their respective speeches would deal, so when I attempted to propound a question to the gentleman from Samar touching on the so-called "Pastoral" in order to verify which portions of "Noli Me Tángere" and "El Filibusterismo" are, according to said Pastoral, contrary to Catholic dogma and morals, the Senator declined to answer the question, saying that that point had been assigned to the gentleman from Bulacan for elucidation, in the division of their work. Now, not a single word has been said by the gentleman from Bulacan on that aspect of the controversy. He devoted the major part of his speech to expressing dissatisfaction with the way the gentleman from Samar dealt with the constitutional question allegedly involved. In fact, the gentleman from Bulacan rebuked the Senator from Samar for presenting here the "apple" example, the gentleman from Bulacan contending that really there was no analogy at all between the example of the "apple half-rotten and half-good" and the bill presented here by the Committee on Education.

At this juncture, allow me, Mr. President and gentlemen of the Senate, to take exception to the unparliamentary behavior displayed here by the Senator from Bulacan when he repeatedly, in the course of his address, six or seven times, perhaps, called Senate Bill No. 438 as the Recto Bill. The gentleman from Bulacan knows that according to the records of the Senate this bill is not even a Laurel bill and much less a Recto bill. This bill was authored by the Committee on Education. The Senator from Bulacan would have been more accurate if he said that I had a part in the drafting of the bill. Perhaps that would have been nearer the truth, and therefore more in accord with the rules of propriety. But he chose to call this bill

the Recto bill, which is not true. From the records of the Senate and considering the true facts, I repeat that it is not true. In fact this bill was drafted outside of this Chamber. Even priests, Catholic priests, had a hand in the drafting of this bill; and I repeat I cannot reveal their names for their protection. They are Catholic priests whose mentality is the same as that of the great Father Vicente García, the great Filipino theologian in the days of Rizal, adviser and counsellor of the archdiocese of Manila and the diocese of Nueva Caceres.

Now, Mr. President, I will not concern myself in the course of this address with commenting on the threat hurled here the other day in his speech by the Senator from Samar that if this bill is passed and enacted into law, all the Catholic schools in the Philippines numbering six hundred will close. I would not dedicate any part of this address to answering that threat because I know that he did not mean to make it. At least he did not mean that that threat would be taken seriously even by the Catholic hierarchy in the Philippines. Catholic schools all over the country are a source of very handsome income and they are also a source of great spiritual power and political power, because in the Philippines, considering that eighty per cent of her total population, and therefore eighty per cent of the total voting population, are Catholics. They are a spiritual, financial and political force that inspires awe and strikes terror. The Catholics will not discontinue the operation of schools, not only because they are very lucrative, their operation being on a cash-and-carry basis, but because they are necessary for maintaining their hold on our government.

Nor will I concern myself with answering that part of the speech of the Senator from Samar which says that if this bill is passed, a Catholic party may be constituted in the Philippines. If there is such a plan, it is welcome, as far as I am concerned. It is better that they should fight in the open, although I am sure that there will be two Catholic parties as there have been two Nacionalista parties in the past, a Catholic party with headquarters at the *Nunciatura Apostolica* to be managed and directed perhaps by the Senator from Samar, perhaps by the Senator from Bulacan, for the sole benefit of and the attainment of sectarian ends of the hierarchy, and another Catholic party to be constituted by those Catholics who believe in God and in serving him, but who also believe in loving and serving their country over and above the church and its ministers. And these Catholics,

even as they profess allegiance to the Holy See on matters of faith, on matters of dogma and morals, still believe that Rizal is the great redeemer of his people, the greatest patriot of the country, and that it is the height of hypocrisy to say that we, Filipinos, should always venerate his memory but should abstain from reading those books in whose pages he distilled the essence of his patriotism. But for the present I must say that it was mean and ignoble of the gentleman from Samar to say here the other day that behind this bill are those four or five groups of people: First, so called collaborators, those who allegedly collaborated with the enemy during the Occupation years; those Filipinos with Communist leanings; the self-proclaimed patriots, and the biased newspapermen. It is not for me to take the cudgels for the newspapermen; they can take care of themselves. But I would like to ask the gentleman from Samar to which category belong the twenty senators that signed and recommended the approval without amendment of the bill in question? Who of them are Communists and Filipinos with Communist leanings, who of them are Japanese collaborators, in contradiction to those who, like the gentleman from Samar, claim to have fought the enemy in the mountains?

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

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

Senator RECTO. The gentleman is welcome.

Senator ROSALES. If I remember right, in the course of my speech when I enumerated certain persons, just recited by the gentleman from Batangas, did I say that they were the ones behind the bill, because if I remember right, I said that the people who caused the confusion at issue were those classes enumerated. I did not say that they were the persons behind this bill.

Senator RECTO. Well, I gathered more or less, that that is what you meant, I am just paraphrasing your speech; I do not pretend to recite it word for word, because I couldn't possibly learn by heart the gentleman's speech, just by listening to it once. In fact, he mentioned among the persons behind the bill, Magtanggol Asa, who, according to him, fought on the side of the Japanese against the Filipinos and headed a company of Makapilis even as the American troops were already in Manila. May I proceed, Mr. President.

The PRESIDENT. The gentleman may proceed.

Senator RECTO. Now, Mr. President, I had expected that in taking the floor this morning I

would confine myself to answering the arguments elaborated upon in his speech by the gentleman from Samar on the constitutional aspect of this bill. But, although this answer was intended mainly for the gentleman from Samar, I shall, in the course of the same, also try to answer the arguments on the same constitutional question presented by the gentleman from Bulacan, who in his address expressed disappointment over the arguments presented the other day by the gentleman from Samar, his ally in the opposition to the bill.

Now, Mr. President, I shall proceed to speak on the constitutionality of the proposed measure. One of the best settled principles in constitutional law in any democratic form of government is that when the constitution has made a grant of powers to the State or to Congress, or when the Constitution has enjoined the Congress or the State to perform certain specific duties for the attainment of certain specific ends and purposes, the State or the Congress must be regarded as fully possessed of all the power and authority necessary for the performance of the duties enjoined, whether expressly or impliedly, in order to attain those great aims and purposes envisioned by the Constitution in making the grant of powers or in imposing those duties. The first classic statement in this regard was made by Chief Justice Marshall in the historic decision of the Supreme Court of the United States in the celebrated case of *McCulloch vs. Maryland*. It says:

"It may with great reason be contended, that a government, entrusted with such ample powers (as is the United States) on the due execution of which the happiness and prosperity of the Nation so vitally depends, must be entrusted with ample means for their execution. The power being given, it is the interest of the Nation to facilitate its execution. It can never be their interest, and cannot be presumed to have been their intention, to stay and embarrass its execution by withholding the most appropriate means."

* * * "The government which has a right to an act, and has imposed it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means."

(51 *McCulloch v. Maryland*)

Because, as was said in a subsequent case (*U.S. v. Rhodes*, 1 Abb. 28), "the means of execution are inherently and inseparably a part of the power to be executed."

Now, conceding this unassailable principle, which is the particular agency of the State that should choose and determine the appropriate means for the exercise of rights granted and for the performance

of the duties enjoined by the Constitution with a view to accomplishing its declared ends? On this point the decisions of the Supreme Court of the United States are unanimous. It is the Congress, that has the power to choose and determine the means, and it has been time and again declared that the exercise of such power of Congress cannot be disturbed, or inquired into by the courts.

In the same decision of *McCulloch v. Maryland*, Marshall said:

"The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers, to insure, as far as human prudence could insure, their beneficial execution. This could not be done by confiding the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end.

Reviewing the effect of this decision, says Wiloughby, it is seen that the word "proper" as used in the phrase "necessary and proper" is construed not as declaring that a means selected by Congress shall be proper as well as necessary—that is, indispensable—for carrying into effect a specified power, but as qualifying the word "necessary" so as to render constitutional the selection of any means that may be appropriate, that is, may in any way assist the General Government in the exercise of its constitutional functions. It scarcely needs be said that the question as to whether or not the particular means selected is the best possible means that might have been adopted, is one for Congress to answer. All that the courts have to consider in passing upon its constitutionality is as to whether it is calculated in any appreciable degree to advance the constitutional end involved. (Pp. 84-85, United States Constitutional Law, Vol. 1).

The following decisions are also to the point:

* * * The sound construction of the Constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. * * *

* * * It scarcely needs be said that the question as to whether or not the particular means selected is the best possible means that might have been adopted, is one for Congress to answer. All that the courts have to consider in passing upon its constitutionality is as to whether it is calculated in any appreciable degree to advance the constitutional end involved.

* * * On the contrary, the sound construction of the Constitution must allow to the national legislature that discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable

that body to perform the high duties assigned to it in the manner most beneficial to the people. *Legal Tender Cases* (Tex., Mass. 1871) 12 Wall. 538, 20 L. Ed. 20 L. Ed. 287.

Congress has a large discretion as to the means to be employed in the exercise of any power granted to it. *Northern Securities Co. v. U.S.* (Minn. 1904) 193 U.S. 343, 24 S. Ct. 436, 48 L. Ed. 579.

Within the legitimate scope of this grant, Congress is permitted to determine for itself what is necessary and what is proper. *Ex parte Curtis* (N.Y. 1882) 106 U. S. 371, 1 S. Ct. 381, 27 L. Ed. 232.

In the exercise of the general power given by this provision Congress may use any means appearing to it most eligible and appropriate, which are adopted to the end to be accomplished, and are consistent with the letter and spirit of the Constitution. *Logan v. U.S.* (Tex. 1892) 144 U.S. 282, 12 S. Ct. 517, 36 L. Ed. 429.

Again in *Anderson v. Dunn*, 6 Wheaton, 225, the U.S. Supreme Court, said, reaffirming *McCulloch v. Maryland* on this point:

There is not in the whole of this instrument a grant of powers which does not draw after it others, not expressed, but vital to their exercise; not substantive and independent but auxiliary and subordinate. *Anderson v. Dunn* (Dist. Col. 1821 6 Wheat. 225, 5 L. Ed., 242.)

"The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers, to insure, as far as human prudence could insure, their beneficial execution. This could not be done by confiding the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. * * *

"* * * The government which has a right to an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means."

I do not mean to say that Congress can, in the execution of that implied or expressed power, invade the field of the Bill of Rights, those rights consecrated and guaranteed by the Constitution. The question is whether this bill, which aims at realizing legitimate educational ends in conformity with constitutional mandate, invades those rights. Now, let us examine this document with the title of "Statement of the Philippine Hierarchy", which has been foisted upon us as a Pastoral. In the first place what is a Pastoral? A Pastoral is a letter of a Bishop signed by him and addressed to the faithful of the diocese. Is this Pastoral signed by all the Bishops of the Philippines, purporting, as it does, to be a joint Pastoral? Not even a photostatic copy of the original of this Pastoral has been presented to us, that we could satisfy ourselves that it has been signed by all the bishops and archbishops constituting the Catholic hierarchy in the Philippines. It is important to ascertain this fact, because this document is, in many parts, untruthful and slanderous, that I sincerely doubt that it could

have been authored by any member of the Hierarchy. I shall deal with this particular point on a later occasion, but before leaving the subject, I shall make a few observations on certain statements made here the other day by the Senator from Samar. When I stood up the other day, on the day the gentleman from Samar spoke, and I asked him "Suppose we find in this Pastoral a passage which cannot be substantiated, for instance, when the Pastoral says that on such and such pages of *El Filibusterismo* and *Noli Me Tángere* such and such passages are found, and after proper verification with the aid of the footnotes no such passages are found, what would be the reaction of Your Honor, I asked?" And the Senator answered: "That is an article of faith to me and to every Catholic. We should accept that document on its face value." Suppose, I insisted, trying to open a door for him, that clerical mistakes, clerical errors are found? He gave the same answer. Well, my friends, if that is not intolerance, if that is not bigotry, I still have to find the word for it. There is one particular fundamental difference between our Constitution and the Constitution of the United States in that our Government, the Government established by our Constitution, is a government of general powers, while the government established by the Constitution of the United States is one of enumerated powers. I need not remind you that the framers of the American Constitution found it necessary to specify the powers of Congress instead of granting it general powers of legislation mainly because of the conflict between the Federal authority and State rights in the United States,—a problem which fortunately did not have to be dealt with by those who framed the Philippine Constitution. It is for this reason that, while the American Constitution established a Federal government, our Constitution established a centralized one. We did not have the problem of the State rights and Federal authority, and so the powers of our Congress are general powers. They have not been specified because there was no need for it. But there are on the other hand in this great instrument provisions some of which are mandatory, some declaratory for the State and for Congress. I shall only mention those which are relevant to the matter under discussion, for instance, the provisions in matters of defense of the State, social justice and education. They are both mandatory and declaratory. Section 2, Article II of the Declaration of Principles says: "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." In implementing these declaratory provisions, which are at the same time mandatory, what did Congress do? It passed a law establishing compulsory military service. The validity of this law was challenged in the cases of *People vs. Lagman* and *People vs. Sosa* before our highest court, which, basing its opinion on this particular provision of the Constitution which it interpreted as mandatory, ruled on the constitutionality, rather, in favor of the constitutionality of said act of Congress. This morning, it was alleged by the distinguished gentleman from Bulacán that in those two cases no question was raised about religious convictions being offended or violated by this act on compulsory military service. I will refer the Senator to the very words of the decision. The Supreme Court, after quoting the particular provision of the Constitution which I have also quoted, and after stating that this act making military service compulsory was passed in faithful compliance with that provision of the Constitution, proceeded to say: "* * * 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*.—an American case—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 shot down in its defense." Why did the Supreme Court have to say that, "even against his religious convictions"? there are only two hypotheses. Either one of the parties in his brief or the parties in their briefs raised such question, claiming that under the Fifth Commandment he could not kill and, therefore, he could not go to war with the purpose of killing, or either because the Supreme Court, foreseeing that in the future a question of this kind might be raised, decided the question in advance by saying that even religious convictions cannot be invoked as ground for refusing obedience to this sort of law.

We have here a case where Congress enacted a law not merely in the exercise of its general powers expressly granted by the Constitution, because as I said, our government is one of general powers and not of enumerated or limited powers; not merely, I repeat, in the exercise of its general powers, but in the exercise, rather, in the performance of a duty expressly and enjoined by the Constitution—the duty to defend the State—and a duty flowing from that fundamental one is the duty to raise an army.

That is a judicial precedent worthy of more respect than any other decision of any other court in the world because it is a pronouncement of our own Supreme Court.

What about legislative precedents? We have the case of the Tagalog language. We passed an act making compulsory the teaching of Tagalog in schools and colleges, not the mere reading of Tagalog books or books in Tagalog. Why did the Congress of the Philippines consider itself empowered to enact such a law even at the risk of offending regionalistic feelings, for instance, of those who are not Tagalogs and who were not reared speaking Tagalog, such as the Ilocanos, the Western Visayans, the Eastern Visayans, the Pampangueños, the Moslems, together constituting four-fifths of the entire Philippine population? It was a sort of imposition, a compulsion on the inhabitants of those regions in the Philippines who do not speak or understand Tagalog, yet Congress considered itself empowered to enact this kind of legislation on the strength of the provision found in Article XIV, Section 3, of the Constitution, which says merely that: "The Congress shall take steps toward the development and adoption of a common national language based on one of the existing native languages." It does not appear from this particular passage of the Constitution that Tagalog should be the national language. On the contrary, the door was left open for the adoption of any other existing language, like, for instance, Visayan, Pampango, Ilocano or Pangasinense. There is absolutely nothing in this provision of the Constitution suggesting the interpretation thereof in the sense that it meant the Tagalog language; and yet because the power of selecting the means, of choosing the means or of determining the means to carry out the powers conferred by the Constitution lies with Congress, Congress chose Tagalog as the national language, and no one has come out so far challenging the law as violative of this provision of the Constitution.

The gentleman from Bulacán in his speech this morning said that there is no parity between the legislation making compulsory the study of Tagalog and this bill making compulsory the reading of the books of Rizal. Of course there is no parity, because in the Tagalog law we are enforcing the study of Tagalog, the learning of the Tagalog language, while in this bill we are not enforcing the acceptance of the doctrines of Rizal. We are only making compulsory the reading of those books, without necessarily compelling the acceptance or rejection of Rizal's opinions. Therefore, if Congress can make the study of a subject compulsory, it cer-

tainly can make the mere reading of the same compulsory.

It is said that this bill is a violation of the right or freedom of worship, of freedom of thought, because we are making compulsory the reading of Rizal's books. Mr. President and gentlemen of the Senate, it is the opponents of this bill that are violating the fundamental principle of freedom of thought and freedom of worship and freedom of conscience because they are denying the student the right to choose between the right part and the wrong part, if there is any wrong part at all in the books of Rizal. How can the student decide for themselves, in the exercise of their individual freedom, which part of the book should be retained and should be learned as gospel of patriotism, and which part discarded as offensive to their religious conscience, unless you acquaint them with everything that is in these books? It is with the opposition that compulsion lies, because of the deprivation of that freedom of choice which could be exercised only by fully acquainting one with the subject of the choice. Compulsory acquaintance with a thing does not mean *ipso facto* compulsory acceptance of the same. The tragic destiny of Rizal is that he fought and died for religious toleration, and he is now persecuted after his death by religious intolerance.

Now I come to another example, Mr. President and gentlemen of the Senate: the Act passed by Congress making compulsory the study of Spanish in colleges and universities. When the bill was introduced in the Senate by Senator Magalona, the immediate reaction of those who felt no affection for the Spanish language for one reason or another, was, why make compulsory the study of the Spanish language. What have we to do, they said, with the learning of the Spanish language? The fact that Rizal, Marcelo H. del Pilar and other great patriots wrote their books in Spanish does not mean that we have to learn Spanish for there are translations of their works available, they added. The fact that great men in this Chamber, like Senators Sabido, Locsin, Paredes, Cuenco, Lim, Zulueta, Puyat, Primitias, Delgado, Laurel, Mabánag, have delivered fine orations in Spanish, does not mean that our students should be compelled to study Spanish. Mr. President and gentlemen of the Senate, before we enacted this law there was a Sotelo Law, which made only optional the study of Spanish, but Congress was not satisfied with that and enacted another making it compulsory. On what constitutional grounds? Just on one sentence appearing in Section 3, Article XIV of the Con-

stitution, which says: "Until otherwise provided by law, English and Spanish shall continue as official languages." That was all. There is no mention of the Spanish language elsewhere in the Constitution. And we must consider the phrase "until otherwise provided by law," which, you know, means that Congress, by legislation, can discard Spanish as official language as well as English, if it chooses to do so; but, instead of enacting a law discarding the Spanish language as an official language, what Congress did was to enact a law making compulsory the study of Spanish. No one has yet dared go to court to question the constitutionality of this Act.

The opponents of the bill are making much capital of their professed devotion to freedom in insisting that the reading of Rizal's books should not be made compulsory, but optional. In fact, the Senator from Bulacan has suggested that public and private schools be required to have copies of the books of Rizal in their libraries, to give students the opportunity to read them without the necessity of compelling them to do so. The opponents of the bill, in resorting to this kind of argument are unwittingly destroying the basis of their opposition to the bill, because if these books are offensive to Catholic conscience as they contend they should not be placed within the reach of the student in any Catholic school. The mere fact that the gentleman is ready to allow students to read these books, albeit without compulsion, amounts to an admission on his part that these books are not intrinsically bad, but, on the contrary, they are good, because if they are bad they should not be placed within the reach of students, in the same way that one would not place bottles containing poison in unlocked shelves within the reach of children. The truth is that these books are salutary reading for all students, Catholic and non-Catholic, because in them Rizal distilled the essence of his patriotism, of his teachings, for the benefit of his people. He is being proclaimed by the opponents of the bill as the greatest hero, the greatest patriot among the Filipinos. Why? Why was he a patriot, why was he a hero? Was it because he was shot in Bagumbayan? Gentlemen, we proclaimed him as our national hero par excellence, we proclaimed him our greatest patriot, because he wrote the *Noli Me Tangere* and *El Filibusterismo*. And if you expurgate those books, if you condemn portions thereof, you would suppress the social, political and religious background which Rizal depicted so faithfully and which he found necessary to expose so as to arouse the patriotism and nationalism of the Filipinos in protest against that regime.

I come to another point. I notice that the hour is far advanced, and I wish to be allowed by the Senate to finish this part of my speech, reserving my right, of course, to take the floor again for the examination of the contents of the *Noli Me Tangere* and *Filibusterismo* in the light of the criticism of the Philippine hierarchy.

Now, Mr. President, as I have shown, there are three precedents, one judicial and two legislative, in favor of the constitutionality of this bill. It is not proposed merely because of Congress' general powers of legislation. If the validity of this bill were to be based or founded on that point alone, that is, on the exercise by Congress of general powers of legislation, I might yield to the argument of its opponents that, perhaps, we would be trespassing on things forbidden by the Constitution. But, Mr. President, not only is there a grant of right or power, there is an imposition of a specific duty on the State and the Congress by the Constitution in this matter, and I refer the Senators to Article XIV, section 5, of the general provisions of the Constitution which specifically deals with education. The reference to this provision of the Constitution was conveniently omitted in the speech delivered here the other day by the gentleman from Samar. But for this omission I would say that his study of the question has been conscientious. In fact, he went as far as quoting Plato, the Educational Act of England of 1834, the Universal Declaration of Human Rights of the United Nations, and a certain Irish Act. He mentioned the Constitution of the Irish Republic and American decisions and authorities. He also found section 4, Art. II, of the Declaration of Principles on the natural rights and duties of parents in the rearing of children. He also found Par. (7), section 1, Article III of the Bill of Rights which says: "No law shall be made respecting an establishment of religion." He also made reference to the provision of the Constitution under Legislative Department, Article VI, section 23, par. (3), which says: "No public money or property shall ever be appropriated, applied, or used, directly or indirectly, for the use, benefit, or support of any sect, church." But to my amazement he chose to ignore section 5 of Article XIV of the Constitution, which is the most pertinent, relevant and applicable provision of the Constitution because it specifically and exclusively refers to education. This provision of the Constitution says: ". . . 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." To carry out these purposes, what does the Constitution provide? It provides that "all educational institutions shall be under the control and supervision and regulation of the state," because it is only in that way that the plan of the Constitution will not miscarry, as private schools could sabotage the constitutional provision regarding the aims and purposes of the Constitution, such as the development of civic conscience, personal discipline, moral character, and patriotism. To prevent that possible sabotage, the Constitution took the precaution of placing all educational institutions, public and private, under the control and supervision of the state. Such is the particular duty enjoined by the Constitution on the State, and especially on Congress. So, even if in the case of the laws that we approved making compulsory the study of Spanish and the study of Tagalog, no question of freedom of conscience was involved and since a constitutional injunction on the State or Congress to perform a duty carries with it all the necessary power and authority to carry out said duty, we must conclude that Congress has authority to enact this bill into law.

I come now, Mr. President, to the Barnette case, the Jehovah's Witnesses' case, which is the favorite argument of the opponents of this bill, even of the hierarchy, against the bill. I am going to examine in detail, Mr. President, the decision in the Jehovah's Witnesses' case, because it appears to have been distorted, both as to the facts and the questions of law involved, by the opponents of the Rizal bill. The true facts of the Barnette case have not been presented here. And as to the legal pronouncements made in the case, those who invoke the decision took good care in quoting only *obiter dicta* and generalities instead of informing the Senate of the true *ratio decidendi* of the case.

Mr. President, what are the facts in the Barnette case? The facts are stated in just five lines. They are the same facts as in the Gobitis decision, a decision two years earlier than the Barnette decision. In fact, I may say that the Jehovah's Witnesses made their first test in 1938 when they brought the Gobitis case before the Supreme Court to protest against this ceremonial flag salute. The decision was penned by Justice Frankfurter overruling the claim of the Jehovah's Witnesses. Chief Justice Strong was a dissenter. Then two years later, Jehovah's Witnesses, speculating on a possible change of opinion by the Supreme Court because of the changes effected in its membership, brought ex-

actly the same question before the Supreme Court this time in the Barnette Case, with the result, as they had hoped, that the ruling in the Gobitis case was reversed in the Barnette case. However, the fundamental principles enunciated by Justice Frankfurter in the Gobitis case remained unanswered in the opinion of Justice Jackson who spoke for the majority of the court in the Barnette case. What are the facts both in the Gobitis case and in the Barnette case? Mr. President, may I be given two minutes just to examine my papers?

MOCIÓN DE SUSPENSIÓN

Senator PRIMICIAS. Mr. President, I ask that the consideration of Senate Bill No. 438 be suspended for two or three minutes.

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

CONSIDERACIÓN Y APROBACIÓN DEL P. R. S. NO. 83

Senator PRIMICIAS. Mr. President, I now ask for unanimous consent of the Senate to consider Senate Resolution No. 83 to request and authorize the President of the Senate to transmit the sincerest sympathy and condolence of the Senate of the Philippines for the untimely death of Senator Alben W. Barkley to the Senate of the United States as well as his beloved family. Mr. President, the Chairman of the Committee on Foreign Affairs will sponsor this resolution.

The PRESIDENT. Consideration of Senate Resolution No. 83 is now in order. The Secretary will please read the resolution.

The SECRETARY:

RESOLUTION REQUESTING AND AUTHORIZING THE PRESIDENT OF THE SENATE TO TRANSMIT THE SINCEREST SYMPATHY AND CONDOLENCE OF THE SENATE OF THE PHILIPPINES FOR THE UNTIMELY DEATH OF SENATOR ALBEN W. BARKLEY TO THE SENATE OF THE UNITED STATES, AS WELL AS TO HIS BELOVED FAMILY.

WHEREAS, press dispatches have brought the shocking report of the sudden death of Senator Alben W. Barkley of the United States Congress;

WHEREAS, as former Vice-President and Senator before and at the time of his demise, Alben W. Barkley was a great friend of the Filipinos and contributed much to harmonious Philippine-American relations; Now, therefore be it

RESOLVED, To request and authorize the President of the Senate of the Philippines to transmit a message of sincerest sympathy and condolence of this Legislative Body for the untimely death of Senator Alben W. Barkley to the Senate of the United States, as well as to his family.

The PRESIDENT. The gentleman from Bulacán has the floor.