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APERTURA DE LA SESION

Se abre la sesion a las 5:00 p.m., ocupando el estrado el Presidente, Hon. Claro M. Recto.

EL PRESIDENTE: Se abre la sesion.

DISPENSACION DE LA LECTURA DE LA LISTA

Y DEL ACTA

SR. GRAFILO: Señor Presidente.

EL PRESIDENTE: Senor Delegado.

SR. GRAFILO: Pido que se dispense la lectura de la lista y del acta.

EL PRESIDENTE: ¿Tiene la Asamblea alguna objecion a la mocion? (Silencio.) La Mesa no oye ninguna aprobada.

DESPACHO DE LOS ASUNTOS QUE ESTAN SOBRE

LA MESA DEL PRESIDENTE

EL PRESIDENTE: Leanse los documentos recibidos.

EL SECRETARIO:

REPORT OF THE COMMITTEE ON FRANCHISES

The Honorable President
Constitutional Convention

Mr. President:

Your Committee, composed of Delegates Jose M. Aruego, Mariano Ezpeleta, Jose E. Romero, E.R. Sandoval, Saturnino Benito, Salvador Araneta, Antonio Guzman, Manuel Lim, Leon Cabarroguis, Mariano Melendres, Alejandro Galang, Jesus Parades, Antonio Mansueto, Atilano Cinco, Jose de Guzman, Demetrio Quirino, Vicente Lopez, Fermin G. Caram, and Gabriel Prieto, has the honor to recommend the inclusion in the Constitution of the constitutional provisions herein proposed.

Your Committee proceeded to its work giving to the term franchises its "primary" and "secondary" meanings. By the term primary franchises or corporate franchises is meant "the right or privilege given by the State to two or

more persons of being a corporation, that is, of doing business in a corporate capacity." (Home Ins., C. etc., v. N. Y. 134 U.S. 549.) By the term secondary franchises is meant "special privileges conferred by the Government upon individuals which do not belong to the citizens of the country, generally, or common right." (Banks of Augusta v. Earle, 13 Peters, 519.)

In making the following recommendations, the Committee has borne in mind the fact that the Constitution should limit itself to fundamentals, avoiding as much as possible too many details, in order to give to the Constitution the flexibility which all constitutions intended to be permanent should have. It has always been guided by the consideration that the Constitution should include only matters which, with the exercise of all the prescience we are capable of, we believe to be fixed, but good, for all time. Other matters should be left to the domain of national legislation.

Respectfully submitted,

(Sgd.) JOSE M. ARUEGO

Chairman

Committee on Franchises

FRANCHISES

1. The Legislature shall have the power, by general laws and not otherwise, to provide for the formation, organization, and regulation of corporations and to prescribe their powers, rights, duties, and liabilities and the powers, rights, duties, and liabilities of their stockholders or members.
2. No franchise of public utility shall be granted except to citizens of the Philippine Islands or of the United States or to corporations, companies, or other entities, at least fifty-one per cent of the capital of which is owned by citizens of the Philippine Islands or of the United States or both
3. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of any person and subjecting them to the public use the same as the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit persons to conduct their business in such manner as to infringe on the rights of individuals or the general well-being of the State.

EL PRESIDENTE: Al Comite de Ponencias.

INSERCIÓN DEL DISCURSO DEL SR. ARANETA

SR. ARANETA: Señor Presidente.

EL PRESIDENTE: Señor Delegado por Manila.

SR. ARANETA: Señor Presidente, desearia pedir que se inserte en el record, el discurso que tenia intencion de pronunciar en uso del privilegio de la primera media hora de esta sesion.

(Acto seguido el Sr. Araneta entrega al Sr. Secretario su discurso.)

EL PRESIDENTE: Asi se ordena.

DISCURSO DEL SR. ARANETA

SOBRE EL NACIONALISMO ECONOMICO

Al dirigiros la palabra en esta ocasion, en que, por vez primera, tengo el privilegio de exponer ante vosotros uno de los principios de mi ideario relativo a la Constitucion, deseo dedicar mis primeros pensamientos al humilde y olvidado filipino del campo, del taller y de la tienda, pues de su bienestar y estabilidad economica dependeran el exito y la grandeza de la nueva nacion que por especial privilegio nos toca crear y desarrollar.

En su discurso inaugural, nuestro distinguido Presidente declaro que podrian tener cabida muy justificada en nuestro estatuto fundamental, "aquellos principios basicos, aquellas ordenaciones fundamentales que, sin rozar las clausulas mandatorias del estatuto congresional de independencia y sin infringir las normas aceptadas del derecho de gentes, expresen de modo fiel y acabado el genio peculiar de nuestra raza, garanticen plenamente al pueblo de estas Islas, en la hora presente y en los tiempos que han de venir, la integridad del patrimonio nacional, prenda inalienable e impignorable de su independencia."

En el marco obligado de un discurso inaugural nuestro Presidente no podia explicar su ideario nacionalista constitucional y esta tarde, contando con vuestra benevolencia, procurare recoger el pensamiento que tan feliz y brillantemente enunciara, exponiendo y analizando uno de los males sociales que afligen a la Patria, en la esperanza de poder contribuir con mis humildes estudios al hallazgo del remedio, que espero sea una conquista de positivos resultados para nuestra nacion, en general, y para el pequeno comerciante filipino, en particular, que aun anda falto de la organizacion debida para la explotacion de su negocio.

El patrimonio nacional no se limita a los recursos naturales del pais, a la riqueza que encierran nuestro suelo, subsuelo, bosques, rios y mares. La oportunidad de ganar una vida holgada en nuestra patria, que no debe limitarse a una minoria de afortunados es, para mi, el patrimonio sagrado de todo filipino, y esta Asamblea Constituyente haria traicion a uno de sus fundamentales deberes, si olvidara el supremo deber de moldear ciertas instituciones basicas de la vida nacional, en forma tal que nuestros nacionales pudiesen disfrutar del privilegio y la prerrogativa de usufructuar los beneficios anejos a aquellas ocupaciones que suministran las necesidades cotidianas y mas imperativas de la nacion, y que en todos los paises ha sido y es el patrimonio de los nacionales.

Me doy cabal y perfecta cuenta, Senores, Delegados, de la grave responsabilidad que representan las ideas que cualquiera de nosotros sustente y exponga en el seno de esta Camara y temeroso de que pudiera ser mal interpretado, deseo aclarar y hacer franca protesta de que esta muy lejos de mi la proposicion de enarbolar la bandera de xenofobia. Considero que el concurso del elemento no nacional en ciertas actividades industriales, financieras y mercantiles fomenta el desarrollo de nuestro bienestar patrio. No me olvido del valioso con-curso cultural, mercantil e industrial prestado por extranjeros de diferentes nacionalidades y que por varias centurias ha contribuido al enaltecimiento y engrandecimiento de nuestra patria. Comprendo que este historico momento en que empezamos a afianzar una personalidad mas nuestra y autoctona en la vida de las naciones, no es el propicio para anunciar un ideario que pudiera conculcar los intereses de los nacionales de otros pais. Pero, al mismo tiempo, no olvidemos que ciertos males sociales que afligen y desgarran a la nacion, son de tan honda raigambre y han pasado ya a la categoria de cronicos, que solo podran extirparse mediante un estatuto emanado de la voluntad suprema y liberrima del pueblo.

El comercio al por menor, llamado a satisfacer las necesidades de nuestros ciudadanos, comercio que juega papel importante en nuestra subsistencia diaria y en la satisfaccion de gran parte de los menesteres que la vida progresiva de hoy nos ha impuesto, tiene un caracter altamente nacional y su explotacion en nuestro pais debiera estar en manos de nuestros conciudadanos, no ya porque asi les abriamos las puertas de una ocupacion que, actualmente, triste es decirlo, constituye un monopolio ejercido por los huespedes que albergamos en el nativo solar, sino tambien porque nuestra independencia politica no seria real y efectiva, entonada y honrosa si no

dejamos de depender para el suministro de nuestras primordiales necesidades del comercio y del concurso extranjeros.

El General Alejandrino dijo con sobrada razon, que la nacionalizacion de ciertas industrias basicas es un requisito indispensable para la defensa nacional. Pero el General Alejandrino se ha fijado, solamente, en uno de los angulos del problema. La nacionalizacion de las industrias basicas podria asegurar al pais los instrumentos de guerra o de defensa que pudiera necesitar, pero para articularlos, se necesitan hombres o soldados, y detras de estos, esta la poblacion civil, cuya moral, que debe mantenerse muy alta para el exito de nuestras armas, dependera, en gran parte, del trato y patriotismo que reciba del comerciante que provea a sus necesidades.

Pero, aun en tiempo de paz, los comerciantes al por menor ejercen una funcion vitalisima en la vida economica de la nacion. Ellos son para el pais lo que las arterias son para el funcionamiento del organismo humano. Su influencia, mejor dicho, su necesidad, se deja sentir hasta en las mas pequenas celulas y actividades de la patria.

En relacion con este particular, placeme acotar las siguientes muy atinadas observaciones que un alto funcionario de la Oficina de Comercio e Industria me ha facilitado.

"Se ha calculado de modo conservador que de veinte a veinticinco por ciento del comercio al detal del pais esta en manos de filipinos y el resto en manos de extranjeros, principalmente, chinos. Esta situacion no tiene paralelo en otros paises y el problema es peculiarmente nuestro. Ya en tiempo de paz o de guerra habria menos complicaciones para una Filipinas independiente, si el comercio del pais estuviera controlado por comerciantes e industriales filipinos. Aun mas, progresariamos mas rapidamente teniendo en nuestras manos el comercio al detal del pais. Los actuales comerciantes, generalmente, se limitan a negociar en productos extranjeros, de aqui que no constituyen ninguna ayuda para el presnte movimiento de industrializar al pais. Algunos de los manufactureros locales han dicho repetidamente que uno de los obstaculos principales que encuentran, es la falta de medios para hacer llegar sus productos a la masa de consumidores, debido a que los comerciantes al detal no sienten deseos de explotar y vender productos localmente manufacturados.

"Las tiendas de sari-sari son una actividad mercantil peculiar de Filipinas. Debido a su conveniente situacion en la comunidad y su posicion estrategica en el sistema distributivo del pais, constituyen un factor vital en la vida economica del pueblo filipino. Ellas son los primeros basamentos en la estructura economica del pais, pero, desafortunadamente, una gran porcion de las mismas estan en manos extranjeras. Cualquier plan de rehabilitacion economica y de conquista del comercio de aqui para el comerciante filipino debiera tener en consideracion este ramo de nuestra actividad mercantil, que esta casi totalmente en manos extranjeras. Los extranjeros se han parapetado detras de un solido sistema de capitalizacion y credito, compras cooperativas, negocios entrelazados, etcetera, de tal suerte que los comerciantes filipinos de sari-sari, pobremente organizados o faltos en absoluto de organizacion, dificilmente podran cambiar por generaciones la presente estructura economica. Un vigoroso y aunado esfuerzo de los comericantes filipinos, defendido por el poder del Gobierno, es necesario para que el comerciante filipino pueda conquistar una posicion digna en el comercio del pais. Una accion independiente de cualquiera de ellos haria ineficaz la campana y unicamente retrasaria la consecucion del fin perseguido.

"Una medida radical, proteccionista, es necesaria para poner al comerciante filipino en una posicion de competencia ventajosa en el comercio al detal. Una disposicion constitutional haria posible la necesaria ayuda oficial."

Este mal social cronico que nos aflige desde hace centurias, demanda un remedio inmediato y eficaz, que solo podria lograrse con la fijacion en nuestra Constitucion del principio sagrado e irrenunciable, de que el comercio al por menor debe ser exclusivo de los nacionales. Y aqui debo aclarar que se debe conceder a los actuales comerciantes extranjeros tiempo razonable para poder liquidar sus negocios sin que tengan que sufrir los reveses

obligados anejos a una cesacion forzosa, para lo cual, sugiero que se les de un plazo de cinco anos. Tambien deseo aclarar que entiendo por nacional al filipino y al americano.

La tesis que deseo someter a vuestra consideracion y que pasare a demostrar con argumentos fundados en la Historia y en la experiencia contemporaneas, es la siguiente. La integridad de nuestro patrimonio nacional, que al decir de nuestro Presidente, es prenda inalienable e impignorable de nuestra independencia, quedaria violada y truncada por nuestra cobardia, moral si al ofrecer a nuestro pueblo el fruto de la suprema magistratura con que nos ha investido, no supieramos conservar para nuestros nacionales el ejercicio del patrimonio sagrado anejo a la funcion de dar de comer y de vestir a nuestro pueblo y que el ejercicio de este derecho no estaria en pugna con ninguna de las clausulas mandatorias del estatuto congresional de independencia, ni con las normas aceptadas del derecho de gentes.

Dentro de nuestra legislacion, tenemos consagrados varios precedentes al estatuir la nacionalizacion de la navegacion interinsular y al estatuir que nuestros terrenos publicos y nuestros recursos mineros constituyen patrimonio exclusivo de nuestros nacionales. Existe un sentimiento pronunciado por parte de muchos Delegados de insistir en la nacionalizacion de nuestros servicios publicos. El comercio al por menor tiene una relacion mas directa con nuestro pueblo que depende mas esencialmente de el, que de los servicios publicos, y de la navegacion maritima interinsular. Interesa mas fundamentalmente a los nacionales el no tener que depender de los extranjeros en sus compras cotidianas que el que la navegacion interinsular y los servicios publicos esten exclusivamente en manos nativas. A este efecto, la Enciclopedia Espasa declara que la compraventa es el mas importante de todos los servicios publicos.

Si acudimos a la Historia, nos convenceremos de que las naciones, desde tiempo inmemorial hasta nuestros dias, han tenido por norma fija la proteccion de sus nacionales. No necesito acudir al Derecho Romano, justamente llamado la madre del Derecho, bajo el cual el extranjero no tenia personalidad ni proteccion alguna ante la ley. En la misma Inglaterra, asi como en todos los paises de la Edad Media, la posicion del comerciante extranjero era muy precaria. Los extranjeros no podian dedicarse al comercio, sin una licencia real. Durante los siglos once al quince, dos tendencias marcadamente opuestas tuvieron su expresion en la legislacion inglesa. Hubo reyes que dictaron leyes encaminadas a permitir a los extranjeros el ejercicio del comercio, leyes que en distintas epocas fueron derogadas y sustituidas por otras, limitando el privilegio a los nacionales. (1).

Desde un principio, Londres cupitaneo la oposicion contra los comerciantes extranjeros. Durante el reinado de Enrique IV se permitio a los comerciantes extranjeros dedicarse unicamente al comercio al por mayor, cinendo totalmente el ejercicio del comercio al por menor a los nacionales. La ley de 1439, durante el reinado de Enrique VI, impone mayores restricciones a los comerciantes extranjeros al extremo de prohibirseles que comercien entre ellos; de requerir que vivan en casa de un nacional que supervise los contratos celebrados por aquellos; de limitar su estancia en Inglaterra para comerciar a ocho meses solamente y de no poder exportar oro. Tambien se les requeria aplicar el fruto de sus ventas a la compra de productos del pais para su exportacion. A mediados del siglo XV, el comerciante italiano de Florencia y de Venecia habia podido consolidarse en Inglaterra en el negocio de exportacion de lana y un estatuto fue promulgado para la proteccion del comerciante nacional (ed. IV C.4.). Durante el reinado de Eduardo VI, se liberalizaron las leyes y el trato concedido a los extranjeros, pero mas tarde, durante el reinado de Ricardo III, se volvieron a poner en vigor muchas de las restricciones de la ley de 1439, en un nuevo esfuerzo de proteger al nacional contra la competencia del comerciante italiano. Esta ley fue nuevamente derogada al ascender al trono Enrique VIII, y el Diccionario ingles de Economia Politica, editado por Henry Hoggs, de donde tomamos estos datos, apunta que, probablemente, la ley fue derogada debido al soborno de los comerciantes italianos. Estas restricciones legales continuaron hasta el reinado de Isabel y si las mismas no estan ya en vigor, se debe a que el comerciante ingles ha tenido ya amplia oportunidad de consolidarse en su pais,

y una vez remediado el mal, la ley no tenia razon de existir. Y si ustedes me piden precedentes contemporaneos exactamente aplicables al estatuto fundamental que propongo, les diria que en Dinamarca y Noruega solo se permite a los extranjeros comerciar al por mayor, prohibiendoseles dedicarse al comercio al por menor; en Suecia, el extranjero no puede comerciar, se exige la naturalizacion o la autorizacion del Jefe del Departamento (2) y si no existen otros precedentes identicos, se debe a que el mal que nosotros sufrimos en nuestro pais, derivado del monopolio por parte de los extranjeros de nuestro comercio al detal, en los tiempos presentes, no tiene parangon en ningun otro pais. En los Estados Unidos, males que evidentemente no tienen la trascendencia ni la importancia que acabo de apuntar, han sido remediados mediante limitaciones similares a las que yo propongo.

En Nueva York y en Oregon se han dictado leyes prohibiendo a los extranjeros dedicarse a la venta de refrescos y bebidas gaseosas, y aunque los tribunales de Nueva York sostuvieron el estatuto, el Tribunal Supremo de Oregon declaro la medida anticonstitucional.

Tambien los Estados de Massachusetts y de Maine han prohibido a los extranjeros a que se dediquen a ser vendedores ambulantes, con la diferencia de que si bien la Corte Suprema de Massachusetts sostuvo la ley, la de Maine declaro que no existia base para discriminar contra los extranjeros en lo que atane al ejercicio de dicho negocio. (3).

En New Jersey, solo nacionales pueden dedicarse a la banca (4) y en la ciudad de Washington, Seattle, se aprobo una ordenanza exigiendo la nacionalidad, como requisito esencial para dedicarse al negocio de agencia de empenos (5). En South Dakota, solo nacionales pueden vender productos, farmaceuticos venenosos. (6). En los Estados de Iowa, Oregon, West Virginia y Texas, unicamente los nacionales pueden dedicarse a operar agencias de empleo (7) y el derecho de operar salones de billar esta generalmente reservado para los nacionales. (8). Un estatuto del Estado de Virginia ha nacionalizado hasta el negocio de compra y venta de hierros y trastos viejos. (9). En Nueva York y en Wyoming, los nacionales unicamente pueden ejercer el corretaje de bienes inmuebles. (10). Pennsylvania requiere que en las corporaciones, asociaciones y sociedades mercantiles, los gestores sean ciudadanos suyos. (11). Y una reciente ley de Nueva York requiere la nacionalidad para los agentes de los asegurados, bajo la ley de Compensacion del Trabajo. (12).

En varios Estados se limita a los nacionales el ejercicio de las siguientes ocupaciones: barberos, (13), cosmetologos, (14) conductores de autobuses, (15) detectives privados. (16).

En los Estados de Oregon y Washington existen leyes muy estrictas limitando la ocupacion de la pesca a los nacionales. La Columbia Inglesa tambien ha nacionalizado la pesca y el Congreso de los Estados Unidos, al legislar con respecto al territorio de Alaska, ha dispuesto que los extranjeros podran pescar con anzuelo o con lanza unicamente, prohibiendoseles la pesca en escala comercial. En California, Nevada, Arizona, Colorado, Delaware, Nebraska, Texas y Washington, ya mediante disposicion constitucional o mediante legislacion, se limita a los nacionales el dominio sobre bienes inmuebles en algunos casos, y en otros se prohíbe a los extranjeros inelegibles para la ciudadania americana tener interes alguno en bienes inmuebles (17). Similares leyes sobre terrenos existen en Mejico, en varios Estados de Australia, asi como en Borneo del Norte. En el Japon, el derecho de los extranjeros de poseer bienes inmuebles es muy limitado. En las Constituciones de Mejico, Irlanda y Polonia se prohíbe a los extranjeros adquirir terrenos, minas y otros recursos naturales.

Y en innumerables Estados y paises se ha limitado el ejercicio de la profesion de auditores, arquitectos, ingenieros, medicos, dentistas, optometras y farmaceuticos, a los nacionales.

Se ha dicho con sobrada razon que el comercio es la mas antigua de las ocupaciones y la mas moderna de las profesiones. En Filipinas y en otros muchos paises, las universidades tienen cursos de comercio al igual que cualquier otra profesion academica. De las aulas de nuestras universidades salen anualmente centenares de

graduados en Comercio que no saben donde emplearse. Es inutil que nuestras universidades consideren el comercio como una ciencia y una profesion, si por otro lado, nuestras leyes no lo elevan a la categoria de una profesion academica y su ejercicio, al igual que otras profesiones, se limita a los nacionales. Y asi como se regula el ejercicio de la Abogacia, de la Medicina y otras profesiones, es deber del Estado regular el ejercicio del Comercio, pues el comerciante puede causar a la nacion mayores males que los que podrian ocasionar otros profesionales. Mr. Duhan, decano de la Harvard Business School, liace hincapie en la importancia y la influencia del comerciante en la sociedad, de esta guisa:

"El fomento, fortalecimiento y la multiplicacion de los comerciantes constituyen una responsabilidad ante la comunidad en el problema central del comercio. Aun mas, es uno de los grandes problemas de la civilizacion, pues los comerciantes pueden hacer mas que cuaiquiera otra clase para la rehabilitacion de las fuerzas sociales y morales de la sociedad y para el establecimiento de la base esencial de una mejor filosofia idealista y practica al mismo tiempo en la comunidad. A menos que un mayor mimero de nuestros principales caudillos en el comercio quieran ejercer sus poderes y responsabilidades, en un sentido mas elevado y definido en comparacion con los otros grupos de la comunidad, a menos que consigamos tener una importante socializacion del comercio, nuestra civilizacion esta llamada a entrar en un periodo de decadencia. Ciertamente, a menos que dicha evolucion tenga lugar, los problemas de la comunidad ocasionados por las actividades comerciales presentaran mayores y mas complicadas dificultades."

La moralidad en el ejercicio del comercio es muy necesaria para el bienestar social y el Diccionario Espasa declara que para conservar dicha moralidad es preciso "primero... que el comerciante se conforme con obtener la medida justa de sus utilidades; segundo, que cobre un precio igual, en igualdad de circunstancias; tercero, que observe el aforismo: verdad sabida y buena fe guardada. Uno de los abusos en los tiempos modernos es el de la confabulacion para elevar el precio de las cosas, inutilizando toda competencia."

Los precedentes que acabo de citar demuestran evidentemente que la clausula constitucional que yo propongo, no esta en pugna con ninguna norma o disposicion del derecho internacional. Mr. Edwin Borchard, conocido autor de Derecho Constitucional, en su libro titulado "Diplomatic Protection of Citizens Abroad," declara lo siguiente: "En ausencia de un tratado o de una disposicion legal, no existe el derecho inherente de ejercer el comercio domestico." (Pag. 78 cita 1.) En mi opinion, dicha disposicion tampoco esta en pugna con la Ley de Independencia. Las unicas limitaciones contenidas en dicha Ley que tienen alguna relacion con esta cuestion estan en la disposicion mandatoria de que durante el periodo de la Mancomunidad, los ciudadanos y las corporaciones de los Estados Unidos disfrutaran de los mismos derechos civiles concedidos a los ciudadanos y corporaciones de nuestro pais, y aquella otra de que, aun despues de reconocida la independencia de Filipinas, los derechos de propiedad existentes de los ciudadanos y corporaciones de los Estados Unidos seran reconocidos, respetados y salvaguardados en la misma extension que los derechos de propiedad de los ciudadanos de las Islas Filipinas.

El estatuto constitucional que propongo, desde luego, no infringe la primera de dichas disposiciones mandatorias, puesto que, como ya he aclarado, no pretendo en modo alguno limitar el derecho de los americanos de comerciar en este pais.

Yo estoy preparado a asegurar que el estatuto fundamental que yo propongo no esta en pugna con ninguno de los tratados comerciales entre los Estados Unidos y otras naciones. En dichos tratados, las naciones contratantes han convenido en conceder a los nacionales de la otra parte, amplia oportunidad para comerciar en sus respectivos territorios, y no puedo deciros si la palabra "territorios," usada en dichos tratados, se extiende a las Islas Filipinas. Para salvar esta posible objecion se podria incluir una salvedad de que la disposicion no se aplicara a los extranjeros que, por virtud de algun tratado comercial celebrado por el Gobierno de los Estados Unidos, tengan derecho a ejercer el comercio al por menor dentro del territorio filipino, y que el estatuto fundamental se aplicara

a dichos extranjeros. despues de un ano desde que dichos tratados dejen de ser aplicables a Filipinas.

El espiritu nacionalista que impera en todo el mundo hoy dia, mal o bien para la humanidad, es un hecho; no es una teoria. Ese mismo espiritu nacionalista ha dado origen a que se inserte en la ley congresional de independencia la clausula, restringiendo durante la Mancomunidad, la entrada de nuestros nacionales en territorio americano, y para cuando seamos independientes, prohibiendoles en absoluto. Esta disposicion ha levantado una polvareda en Filipinas. No es mi animo defenderla. Solo dire que nuestros nacionales, segun los americanos, constituyen un mal en los Estados Unidos, y su Congreso, para remediarlo, tuvo que valerse de una legislacion, aun a costa de herir nuestra susceptibilidad nacional.

Se dira que este mal de que padecemos no requiere ningun estatuto fundamental y que una mera legislacion podria remediarlo. A esto contestare que si consagramos en nuestra Constitucion los principios americanos de un "debido proceso legal" y de "igual proteccion ante la ley", que han recibido una interpretacion muy amplia del Tribunal Supremo de America, el estatuto que yo propongo, si emanara unicamente de la Legislatura, podria ser declarado anticonstitucional por conculcar dichos principios constitucionales, bajo cuya sombra el Tribunal de los Estados Unidos ha sentado la siguiente jurisprudencia:

"La enmienda decimocuarta de la Constitucion no se limita a proteger a los ciudadanos. La misma dispone que "Ningun Estado privara a una persona de su vida, propiedad y libertad sin el debido proceso de ley ni negara a persona alguna, dentro de su jurisdiccion, la igual proteccion ante la ley." Esta disposicion es de aplicacion universal, refiriendose a todas las personas dentro de la jurisdiccion territorial sin tener en cuenta ninguna diferencia.

La ley es una garantia de proteccion ante otras leyes iguales. (Yick So v. Hopkins, 118 U.S. 369)."

Por tales consideraciones, sostengo que este problema debe estudiarse y resolverse por esta Asamblea Constituyente en el sentido de que si la misma no esta inclinada a adoptar el estatuto fundamental que aqui propongo, que la Constitucion no contenga, al menos, ninguna disposicion que impida mas tarde a nuestra Legislatura remediar este mal mediante la adecuada legislacion que las circunstancias demanden. Entiendo, sin embargo, que estando en nuestras manos el remedio, renunciariamos a un derecho y violariamos un deber al no hacerlo. Bien quisiera yo que no existiera ninguna necesidad y ninguna urgencia de remediar este mal social con un estatuto, ya constitucional o ya legislativo; bien quisiera yo que nuestros propios comerciantes pudiesen competir con los extranjeros en el comercio al detal, sin que fuera necesario extenderles la proteccion de nuestras leyes. Pero, senores, temo que si adoptamos una filosofia de laissez faire en cuanto a este particular, el mal, lejos de remediarse por la iniciativa particular, continuaria empeorando mas, hasta el punto de convertirse en un grave malestar social, que en las grandes crisis nacionales pondria en peligro la estabilidad de nuestras instituciones y de nuestro Gobierno.

Si me dejara llevar por mis preferencias personales y la simpatia que siento por muchos extranjeros, no me tendriais esta tarde defendiendo, publica y abiertamente, ante esta Camara y ante la nacion, la causa del debil, desorganizado, anonimo y para mi desconocido tendero filipino. Contra mi natural pacifico y contempORIZADOR, contra mis inclinaciones y conveniencias, he puesto por encima la unica consideracion valida y sana que debe movernos en nuestra labor: la salud de la Patria. Y al exponer esta tarde en forma razonada, franca, abierta, la necesidad de que se nacionalice el comercio al por menor en nuestro pais, cumplo con una conviccion sincera, con un principio que ya tuve ocasion de hacer publico al presentarme como candidato a Delegado por el Distrito Sur de Manila, y ante todo y sobre todo con el nuevo apostolado que la Patria reclama de sus hijos: El apostolado del nacionalismo politico iniciado por Rizal, Bonifacio y Aguinaldo, llevado a feliz exito por los Osmena y los Quezon de nuestros dias, una vez cumplido su objetivo y proposito, debera dar paso al nuevo apostolado del

nacionalismo economico, que complementara el ideario nacionalista que nos hara dignos de ocupar un sitio honroso en el concierto de las naciones. Uno de los postulados de dicho apostolado es el que esta tarde he sometido a vuestra seria consideracion, con la conviccion de que la decision que finalmente se adopte por esta Camara sera inspirada por un sano y valeroso ejercicio de sus funciones constitucionales.

CITAS

- 14 Espasa, 520; the Commercial Laws of the World. Vol. XX, P. 29.
- Miller V. Niagara Falls, 207 App. Div. 798; Grageser V. Grey 73 Md. 250.
- Vease Commonwealth V. Homma, 195 Mas., 262; State V. Montgomery, 94 Mass.. 192.
- Leyes de 1925, Ch. 189.
- Asakura V. Seattle 265 U. S. 340.
- Leyes de 1929, Ch. 124.
- Iowa Laws of 1925, Ch. 49; Oregon, Laws of 1929, Ch. 297; West Virginia, Laws of 1929, Ch. 12; Texas Laws of 1929 (2nd Ex.), Ch. 95.
- Georgia, Leyes de 1929, p. 286, see Clark V. Deckebach, 274, U.S. 302, Murphy V. California, 225 U.S. 623.
- Leyes de 1930, Ch. 436.
- Nueva York, Leyes de 1922, Ch. 673, Enmiendada por Ch. 579, Leyes de 19244, Wyoming, Leyes de 1929. Ch. 107.
- Leyes de 1931 No. 359.
- Leyes de 1928, Ch. 518, Ch. 749.
- Wisconsin, Leyes de 1927, Ch. 195, Idaho, Leyes de 1929, Ch. 261, Iowa, Leyes de 1929, Ch. 72.
- Wisconsin, Leyes de 1927 Ch. 130; Idaho, Leyes de 1929, Ch. 264.
- Georgia, Order of Public Service Commission. Oct. 1, 1929; Rhode Island, Ordinance of Providence, Ch. 93, 1920
- California, Leyes de 1926, Ch. 885; Michigan, Leyes de 1927, No. 383; Wisconsin. Leyes de 1931, Ch. 52.
- Vease Kholer, Legal Disabilities of Aliens in the U.S. American Bar Association Journal Feb. 1930, p. 113 C. J. 1046.

MR. BALILI: Mr. President.

THE PRESIDENT: The Gentleman from Bohol.

MR. BALILI: Mr. President, before we begin the discussion, I wish to be informed thoroughly as to whether the voting to take place next Friday evening will be final.

THE PRESIDENT: The Chair understands that it will be final.

MR. BALILI: Supposing that there will be one hundred fifty delegates present on Friday evening?

THE PRESIDENT: Nevertheless, the decision will be final.

MR. ARUEGO: Mr. President.

THE PRESIDENT: The gentleman from Pangasinan has the floor.

DISCURSO DEL SR. ARUEGO A FAVOR DEL SISTEMA
BICAMERAL

MR. ARUEGO: Mr. President and Gentlemen of the Convention: It was found out that of the 806 acts passed by the Philippine Commission 403 altered the rest. In other words, the 403 of the 806 acts were nothing but repealing acts, acts which were intended to perfect previous legislation, so that this commentator said, "the legislative body did not know its own mind or else conditions changed very rapidly almost from day to day."

Before I conclude, Gentleman of this Convention, I would admit that no bicameral system in the world is perfect. The countries that adhere to the bicameral system know very well the imperfections of the system, but notwithstanding its imperfection, they prefer it to the unicameral system because they believe that the unicameral system could not be any better. The move-ment for unicameralism in Europe and United States has been going on for some time. I know of no coun-tries of significance that today are governed under a unicameral legislature, except those in the experimental stage. Spain is under a unicameral legislature, but Spain is in the throes of a civil war. Germany has abandoned the bicameral system because Hitler has abolished the Upper House, the Reichstag. The Upper House was abolished, in spite of the provisions of the Constitution, because Hitler believes that with the abolition of the Upper House and with the existence of the Lower House under his control, it would be easier for him to perpetuate himself as a dictator.

Gentlemen of the Convention, before I close, I should like to make the humble observation that my mind is still open to a unicameral organization if those who advocate for a unicameral system can tell me any special reason for the adoption of a unicameral legislature in the Philippines, or any other reason that has not been mentioned in the movement for unicameralism in other countries. I know that in the United States that movement has failed, notwithstanding the fact that the movement has taken a long time. The majority of the states of Europe are still governed under a bicameral legislature. The unicameral system has triumphed in city governments, but there are very few cities operating under a bicameral council. Under the unicameral system of city council, there is the mayor, and the unicameral system exercises both executive and legislative functions.

As I said, Gentlemen of the Convention, I am still with an open mind. I wish to know what special reasons we have in the Philippines that have not been brought out in the movement for unicameralism in other countries, reasons which would justify the abolition of the Senate in the Philippines and the establishment of a unicameral legislative body.

MR. BOCAR: Mr. President, will the gentleman yield?

THE PRESIDENT: The Chair wishes to remind the members of the Convention who desire to interpellate that the time of debate for this subject is very limited.

MR. ARUEGO: I am sorry that my time has expired.

MR. ROMERO: Mr. President, I yield fifteen minutes to the gentleman from Sorsogon.

SPEECH OF DELEGATE GRAFILO

MR. GRAFILO: Mr. President, the chosen and select delegates, who are assembled in the hall of this palace of the people, carrying with them the greatest responsibility of drafting and formulating a Constitution which shall be the fundamental law of the land, is now confronted with a big question. The question is clearly defined in the

proposition whether to adopt a bicameral Legislature or a unicameral Legislature. The proposition is clear: it is simple. I would like to indulge myself. Mr. President, in sustaining a unicameral legislature by presenting certain issues, the discussion and examination of which will be instrumental in arriving at an enlightened solution. I would also request those members of this Convention entertaining the opposite view to bear with me on the following issues:

The first is: Shall we make a Constitution with provisions and organizations that are simple is against the complex and the complicated? Supporting the unitary form, I say my answer is "yes," since the unicameral system is simpler than the bicameral system. The second issue is this: Shall we take into consideration the point of economy? Again my answer is "Yes." The unicameral system is less expensive than the bicameral legislature. The third issue is this: Is our tendency towards a more democratic system? I maintain the affirmative answer, because the unicameral system is more democratic than the bicameral one. The fourth issue, is this: Is it not better that we form a system which fixes responsibility in the making of our laws? The same affirmative answer I maintain. In a unicameral system, responsibility is fixed for unwise and defective legislation. The fifth issue is this: Shall we institute a form of government responsive to the needs, the immediate needs, of our people? Yes, Mr. President, and the unicameral system is responsive to the immediate needs of our people. That system of legislature, was it the dream and desire of our forefathers who fought and died for our freedom? Gentlemen of the Convention, the answer to this question is clear and unmistakable. Read the Malolos Constitution, and you will find that our forefathers wanted none other than the unitary system.

I now come, Mr. President, to the discussion of the first issue, which is that the unicameral system is simpler than the bicameral system of legislature. I would suggest that we focus our mind, our attention, not on theories found in books but on practical workings of legislative systems. In certain legislatures, we find the duplication not only of work, of time and money, but also of energy. One of the chambers, for example, the Lower House, may pass a certain law. Said measure is carried to the other chamber, the Upper House. There it is discussed, returned or sent back with amendments to where it originated, and the complexity of the system begins. If our intention, Mr. President, is to have a Constitution which is simple and clear, the answer to that is to adopt a unicameral form of legislature. In this connection, I would like to quote famous men known all over the world. Benjamin Franklin, discussing systems of legislature, said: "A legislative body divided into two branches is like a carriage drawn by one horse in front and pulled by another horse behind to the opposite direction." A statement, Mr. President, by Seizes runs thus: "There ought not to be two voices. If the Upper House agrees with the Lower House, this is superfluous. If it disagrees, it ought to be abolished." There is no, justification, Mr. President, for the adoption of a bicameral form of government.

The next issue is towards the point of economy. Our lawmakers today are more in a position than I to figure, to find out, the enormous expense incurred by poor Juan de la Cruz in sustaining a two-chambered legislature. It does not comprise only the salaries of the Senators. It carries with it the other expenses attached to or connected with maintaining the Senate. If we multiply the enormous sum spent by one chamber in one day by thirty, we can figure out the enormous sum spent in a month. Multiplying that by twelve, we can imagine the figure in a year, and multiplying that by many years, should we adopt a bicameral form, there is a tremendous figure in feeding a bicameral system.

Our country, Mr. President, especially during the period of transition, and more so when we become independent, needs more money for more expenses. I shall not mention those expenses in detail. Suffice it to say that money will be better spent for schools, hospitals, and other public improvements than for the maintenance of a bicameral legislature.

The third one is, the unicameral system is more democratic than the bicameral. The doctrine of popular

sovereignty and general will can better be expressed by a unicameral body. In this connection, I want to give a specific example, an instance, in which a robot minority, in a two-chambered legislature, may not only frustrate but even defeat the will of an organized majority. Let me explain, Mr. President. As we have it now, Mr. President, the members of the Lower House are elected every three years, and so are one-half of the members of the Upper House. Supposing that a certain fundamental issue is presented before the public, and the public decides to support the party presenting that issue. Supposing that in so doing the people elect all the candidates of the party for the Lower House but only eleven for the Upper House. The result will be this: That there will be thirteen minority Senators in the Upper House, with only eleven Senators with the majority in the Lower House. Now, the majority of the Lower House, following the mandate of the people who elected them, pass a bill in compliance with the proposition. That bill is a clear expression—one hundred per cent—of the Filipino people. Nevertheless, it will not become a law in the system of bicameral legislature unless it has the sanction of the Upper House, and in the Upper House, there are only eleven Senators with the Lower House majority. The bill is then defeated, eleven by thirteen, in the Upper House, and the need for the law, which is the requirement of the Filipino people, is not fulfilled—a minority defeating the will of the majority.

MR. FLORES: Mr. President, will the gentleman yield?

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

MR. GRAFILO: I regret I cannot answer until I am finished with my speech.

(Continuing.) Mr. President, if our tendency is to formulate and draft a Constitution with the end in view of having a democratic institution, the only answer is to adopt a unicameral legislature.

The fourth issue, Mr. President, is to fix responsibility. We have adopted a government democratic in form, and it is elementary that a democracy must be run by political parties. In practice, with the bicameral system, fixing the responsibility for one measure or another sometimes becomes dark, obscure. Some of the members of the Convention who are also members of the Philippine Legislature can see better than I the difficulty of fixing responsibility. This is augmented, Mr. President, when in one house a certain proposition is passed, then brought to the other house, where amendments are introduced. If we cannot fix responsibility in the making of laws, the system of democratic institutions run by political parties may be frustrated. In order, Mr. President, that our people will be responsive to the workings of the government agencies, in order that such agencies will in turn be responsive to the will of the people, responsibility has to be fixed, and this can be done only by forming a unicameral Legislature.

Mr. President, I shall not discuss longer my contention that the desire, the dream, of our forefathers, who not only shed blood on the battlefields but also died for our freedom, is no other than a unicameral form of Legislature. Our dream to have a Commonwealth which is now dawning, our desire for a Philippine Republic after the Commonwealth or after the transition period, is not only of this generation or of the present; history is behind me when I say that the freedom we cherish is the same freedom for which our forefathers fought and died and that our work today is just the continuation of the work they began. And since they laid the foundation, with the desire for the unicameral form which is expressed in the Malolos Constitution, I cannot see, I cannot even imagine, how we could be consistent with them should we adopt another system.

The first speaker, the distinguished Gentleman from Pangasinan (Mr. Aruego), supports the bicameral system, the theory of check. When this question was first brought up, I had also in mind the same theory in law-making to prevent hasty and defective legislation. But, Mr. President, that objection against the unicameral system on the theory of check has a remedy, should we adopt the unitary form. Besides the legislative brunch of government that we shall institute, there will be the executive branch provided for in our Constitution. The executive branch

executes the laws, and everybody knows that the chief executive has the power to veto hasty, defective and unnecessary legislation. Moreover, is it not possible that those considered experienced, well-trained men in legislation, who are timber for the Upper Chamber, will be elected to the unicameral Legislature? They can discharge that duty and function of making their proper check even in a single or unitary chamber.

Lastly, Mr. President, there are instances in a bicameral system where defective legislation is made. Why? Because there is that human defect of one body depending on the other. A Lower House, for example, may pass a bill without studying and scrutinizing its provisions and effect, believing that there is another body which will make the proper study. The other legislative body, believing that the bill has already been thoroughly discussed and studied, passes it, too. Why? Because there is that human defect, which we cannot deny, of relying on what has already been done. But should we accept a unitary form of legislature, that fear of defective or hasty legislation can be eliminated. The members of the unitary legislature will have the consciousness that there is no body other than theirs to deliberate and discuss on propositions they are called upon to solve: and knowing that only one body is considering measures naturally, they will have to do their best.

THE PRESIDENT: The time of the Gentleman from Sorsogon has expired.

MR. GRAFILO. I would like to ask for just two minutes to conclude.

MR. ROMERO: I yield two more minutes to the Gentleman from Sorsogon.

MR. GRAFILO: Mr. President, I am announcing that I will vote in favor of the unicameral form of Legislature because, first, it is simpler than the bicameral system; second, the unicameral system is less expensive than the bicameral form; third, the unicameral system is more democratic; fourth, the unicameral system fixes responsibility for unwise and defective legislation; fifth, the unicameral system is responsive to the immediate needs of the people; and, sixth, the unicameral system was the dream and the desire of our forefathers who fought and died for our freedom. (Applause.)

MR. ARUEGO: I yield ten minutes to the Gentleman from Bohol.

SPEECH BY DELEGATE INTING

MR. INTING: Mr. President and Gentlemen of the Convention: The subject under discussion is one of the fundamental problems confronting us in the delicate task of framing the Constitution of our country. We are to decide with fitting seriousness what kind of a legislative body we shall have, whether it be bicameral or unicameral. We are conscious that the Legislature is the bulwark of the political rights of the people. It is the body composed of the representatives of the people responsive to their sentiment and needs. Our action and decision on this important problem directly affect our people. We do not want to be recreant to our duties, and I, for one, would like to register my vote for a bicameral Legislature.

A bicameral Legislature as a governmental system is an old institution. It was practiced by the Greeks and the Romans even before those two great nations of the ancient world reached the zenith of their powers and progress. The system was developed in England in the 13th century and then followed by most of the progressive countries of the world.

The creation of the second chamber or the Senate was not an artificial act. It was incidental in the process of transition from monarchy or oligarchy to democracy. Yes, it was part and parcel of the lone struggle to wrest the unlimited powers from the hands of kings and emperors and thus make sovereignty reside in the people. It was as it is now, by necessity, intended to safeguard the political and civil rights of the people; to prevent ill-considered and hasty legislation by subjecting any bill from one chamber to a revision and amendments by the other

chamber; to check the impetuosity and radicalism of the Lower House and the growing ambition of an executive to make himself a dictator.

The Senate is what the unicameralists want to abolish. They believe that the existence of the Upper Chamber is superfluous, but under the Jones Law we have the Philippine Senate. What are the grievances of the Filipino people against this body? Traditionally, we have respected the Philippine Senate because it has always been composed of the intellectual men of the country whose deliberations on national affairs have always been characterized by calmness and sense of responsibility. As a legislative body, it has always stood for the rights and welfare of the people. It has played a patriotic role in our peaceful struggle for freedom, and it is astounding to see it abolished at the advent of the very independence for which it has nobly strived.

The world today sees more countries adopting the bicameral Legislature. In fact, most of the world powers have a bicameral legislature. We have the United States, England, France, Italy and Japan. These examples are sufficient to make us understand that it is justifiable to continue in our country the present system of a bicameral legislature. What are some of the countries adopting the unicameral system? We have Bulgaria, Finland, Turkey and Spain. The riots and civil war now taking place in Spain are not encouraging for us in adopting a unicameral legislature. We do not want to lose the doctrine of checks and balances which has always worked well in tempering sudden outbursts of passion in democratic legislative chambers which, if unbridled, would cause trouble.

We want peace and security for our young country. If we have only one chamber for our Legislature, that body will always be aggressive and radical. It will lack the calmness and seriousness of the Philippine Senate, which is usually composed of older men. The outcome, God forbid, will be uprisings like those happening in countries where the doctrine of checks and balances has no longer a place.

The existence of the Senate or any Upper Chamber in a Legislature has always been recognized. In countries where the unicameral system is adopted, there is always a body whose continuous existence serves to play the role of an upper chamber. We have in Spain a body of twenty-one deputies that hold office while the National Assembly is not in session. In Turkey they have the Council of Ministers. Even the framers of the Malolos Constitution saw the gap in the absence of an Upper Chamber in the Legislature, and so they created the Permanent Commission of Seven Members.

In a democracy we need a permanent body that represents the people. If our Legislature is composed of one chamber only, then all of the members thereof must be changed at the expiration of the terms of office. But with an Upper Chamber, where one-half of the members only are changed every election, the said body is continuous in existence with the other half of the members, and the people always have a feeling of security in knowing that at all times they have their representatives in the Government.

Gentlemen of the Convention, to establish here a unicameral Legislature is to change our present legislative system. It is a daring experiment. The Filipinos, as a people, are not stagnant, and we welcome experiments which we believe will result in the good of the country. But to experiment with a system which as we know will bring havoc and disaster to our country, is to commit suicide or, at least, an act of irresponsibility. We must not, therefore, carry on the hazardous venture, and I hope that in our Constitution we provide for a bicameral Legislature.

I would like to refute the argument of my colleague to the effect that the doctrine of checks and balances could be substituted by the exercise of the Chief Executive's veto power if the unicameral system were adopted. At present, under the bicameral system, many laws passed by the two houses after careful study and deliberation are vetoed by the Chief Executive. If we adopt the unicameral system, the laws passed by the lone chamber will be hasty and ill-considered, and the veto power of the Chief Executive will be exercised doubly or thrice as it used to be. Many

laws will, therefore, be vetoed, and this act of the Chief Executive will cause resentment among the members of the Legislature. As a consequence, there will be discord between the executive and the legislative branches which will be to the prejudice of the people instead of maintaining harmony and cooperation essential for a successful government.

MR. ROMERO: Mr. President, I yield ten minutes to the Gentleman from Pangasinan, Mr. Guzman.

THE PRESIDENT: The Gentleman from Pangasinan has the floor.

SPEECH OF MR. DE GUZMAN IN FAVOR
OF UNICAMERAL SYSTEM OF LEGISLATURE

MR. DE GUZMAN (J.): Mr. President and Gentlemen of the Convention: Addressing a group of university students sometime ago, our energetic President Hon. Claro M. Recto disclosed the startling fact that, despite the open advocacy he had previously launched in favor of unicameralism in the Philippines, he had to adhere to the idea of retaining the present double-chambered system of the Philippine Legislature. As a basis of the rather unfortunate "change of front" of the distinguished head of this Constituent Assembly, the wonderful allegation is laid down that, at this period of our history when we are about to step onto the threshold of a new era, to adopt a system of legislature substantially antagonistic to what we have been accustomed by experience may entail radical consequences. It can be clearly seen that our President is sadly overcome with the premonition that the radical consequences that may arise from the adoption of a unicameral legislature at this momentous stage in our national existence would result to the detriment and disadvantage rather than the welfare and benefit of our people.

Without the least attempt to belittle or impugn the dignity with which the name of the academician-captain of the ship of our Constitutional Convention is stamped upon the hearts of our people, I desire to register hereby my contention that, if there is a time in our life as a people which not only appropriately but imperatively demands the institution of unicameralism in our country, that time is the present. Much as President Recto holds the view that because of the attending circumstances of the present time it is not advisable for us to transform the present legislative system into a unicameral body, I maintain that the very attending circumstances at the present time only furnish the real justification of any effort to introduce unicameralism in the Philippines.

At the outset, I wish to tell you that I shall be very brief in my speech. I shall not endeavor to discuss the question to its full extent, dealing only with two fundamental aspects.

In the first place, the period of transition which we are about to enter by virtue of the Philippine Independence Act, otherwise known as the Tydings-McDuffie Act, will be a period of economic readjustment. The Commonwealth will be a new order in our national history, and one of the imperative demands of that new order is to exact from our national conscience a deep sense of practical economy. The eventual termination of our free-trade relationship with the United States, which is tantamount to the closing of the American market against Philippine exports, and the inevitable advent of the multifarious responsibilities of independent existence, will necessitate the observance of an unswerving attitude towards economy, especially in the outlays and expenditures of our Government. Unless our Government deviated from its trodden path of extravagant and wasteful disposal of the people's money, Juan de la Cruz would be financially crippled. I invite you all to have a look at our present Legislature. It is composed of two chambers, each with its array of "solons or soloists," seen with its teaming battalion of "empleados"—secretaries, clerks, stenographers, sergeants-at-arms, messengers and so on, each with its accessory administrative department, each with its vicious propensity to utilize the money of the people for seemingly inexpensive miscellaneous incidentals. Shall we allow such a situation, without regard for the people's interest? As for me, I shudder at the idea of perpetuating the anomaly of our bicameral Legislature. Economy may

be effected in the two-chambered system by diminishing the membership of each house at the expense of the principle of proportional representation, by reducing the salaries of the members thereof, and by dismissing unnecessary employees. Such an idea is not bad at all, but, unfortunately, as between two chambers which economize and a single chamber which economizes, the latter is indubitably much more economical. If economy is a radical consequence of the adoption of unicameralism, shall we refuse such a consequence on the ground that it is radical? My logical answer is that we should not only accept it but demand even more of it because it is a radical consequence in favor of our people.

In the second place, the task of readjustment during the transition period demands that we simplify our governmental processes. The means of effectuating the policies which our Government may resolve to adopt should be of such a character as would readily serve to facilitate rather than procrastinate the successful consumption of such policies. I wish to emphatically state that in periods of stress and emergency, the need of the hour is "swiftness in decision and vigor in action," that it is needless for me to enumerate the instances that testify to the truth of this statement. The policies of our Government will be mainly economic, and economic policies are often difficult to admire because they necessarily affect conflicting interests. A single chamber is a field of opportunity in which conflicting interests can stage the struggle of their respective claims, and certainly to double that chamber is to multiply the opportunity of opposing grounds to delay the achievement of needed and urgent measures. A two-chambered legislature is not a system which lends itself to simplicity; it is characterized by delay, confusion, and much working at cross-purposes. Mr. President, right here in this Convention, I can cite to you very clearly the truth of my statement. At present, as everybody knows, there are practically two separate bodies, one the Sponsorship Committee, and the other the Convention itself. I think there is no need explaining to you the facts and the attending circumstances, why there is a move at present to create a special committee or a sub-committee, as you call it, on the ground that the presence of so many bodies to work on the Constitution is merely lengthening the work of this Convention. There is even a move to dissolve the Sponsorship Committee because its deliberations and proceedings are but duplicating the work of this Convention. Gentlemen of the Convention, let us profit by our own experience in this Convention, that the presence of two distinct bodies will naturally create opposing groups to delay the achievement of the most systematic way of passing important and urgent measures. Under the bicameral system we lose time, money, and energy enough to place the country in a miserable condition. A unicameral legislature is what lends itself to salutary consequences; under it there is concentration of work and responsibility. The members will not feel conscious of the existence of a sort of "alter ego" in another chamber, and necessarily they will devote their time and energy to the perfection of their proposed measures.

Of course, there is the traditional nineteenth-century-edition argument of "check for the bicameral legislature," boosted by such men as Mills, Maine, Lecky, and Bryce. The up-to-date opinion, however, runs to the effect that the two chambers in a bicameral legislature do not by practice really check each other; instead they conspire together. The true checks against ill-considered, despotic, hasty, or unconstitutional laws are the executive vote and the power of the judiciary to annul laws as unconstitutional.

Thus we see that now is the opportune time for us to introduce unicameralism in the Philippines. The attending circumstances of the period are the forces behind the justification of unicameralism in this country. If we are about to enter the portals of a new life, if we are about to make a transitional step from a dependent to an independent existence, then this is the time we are most justified to adopt the unicameral system of legislature.

In conclusion, Mr. President, let us adopt the unicameral system in place of the present very expensive and highly complex bicameral form of legislature, now or never. I thank you.

MR. ABORDO: Mr. President, I yield ten minutes to the delegate from Abra.

EL PRESIDENTE: Tiene la palabra el Caballero de Abra.

SPEECH OF MR. PAREDES IN FAVOR OF THE
BICAMERAL SYSTEM

MR. PAREDES: Mr. President and Gentlemen of the Convention: The barbaric tribes of the North who invaded the South were inspired by "Germania" written by Tacitus in which it was promulgated as a principle the bicameral system of legislation. There were represented the conservative people and the rest of the inhabitants, the proletariats. The Teutonic principle was implanted in England, regulated by the bicameral system, bicameral in the sense that the council of older men or the body of chieftains associated with the executive, and there were also the fault moot and the men moot of England which represented the people. The principle was in vogue in England when some of the population went to settle in what is now the United States, and their colonies came under the bicameral system of government. Virginia was one of the first colonies.

Afterwards, they asked for a separate deliberative body in the making of their laws, and the Government of England granted to the colonies little by little the power to organize themselves into several bodies. The question of taxation without representation brought on the clash between the new American people and the then English Government. And so they found the necessity, after the declaration of independence, to make their own confederation, which was unicameral in character. But after ten years, they found that the unicameral system of government was a failure, and they did not amend the Articles of Confederation but resolved to frame a constitution. Today the unicameral system is enforced only in twenty-two nations, all small, except Germany and Spain. With respect to the Philippine Islands, the Constitution of Malolos provided for a unicameral system in the sense that the framers were inspired by the principle in England. We say therefore, that we were the first to follow the English Constitution, but now we have the Senate to check the House of Representatives. We must be aware that at that time the Philippine Islands was not like the Philippine Islands of today. We must be aware that there have been changes, according to circumstances and to time, and that the Constitution of Malolos is not now applicable to the Philippine Islands. Otherwise, there could be no need of the Convention. We should simply adopt the Constitution of Malolos as a show of respect to our forefathers. If we were sentimentalists and were minded to follow what they did we should merely say: Let us copy the Constitution of Malolos because this was the desire of our forefathers after the revolution.

But, Gentlemen, now we are confronted with different problems, and one of the problems is that of economy. Are we going to sacrifice the principle for the sake of economy? Are we going to sacrifice the principle, which was sustained in Rome? Are we going to destroy the principle followed by Napoleon in creating the Napoleonic Code? Are we going to destroy the sentiments of Sweden when that country adopted four organizations as a legislative body? We are not asking for the Philippines that much; we are asking for only two chambers, and now some of us are asking for one. Gentlemen of the Convention, the unicameral system is very dangerous. It is easier to bribe one than two. I am afraid that if we had only one chamber, a lobbyist could easily have a piece of legislation changed. It cannot be denied that in every country there are the patricians and the plebeians. The plebeians have the popular chamber because this can interpret their sentiments, but if we do not provide representation for those who sit in their rocking-chairs, what is the incentive for the Legislature to go to the field of activity and fight when, after all, it is but to represent the masses and not the higher class of people?

What can be the check of an abuse that may be committed by a unicameral system? Suppose there is a need of deliberation? Is deliberation by one body more advantageous than deliberation by two? It is not reasonable to believe that. How can problems of the State be understood if we have only one class of people represented? How about the professionals? These people as well as the masses, have to be represented. And this can be done only by introducing the bicameral system of government.

The United States of America has implanted in the Philippine Islands the principle of the bicameral system. But nowadays, instead of progressing, we are retrogressing. Instead of the bicameral system, which is adopted by forty-four nations against only twenty-two, we want something else. Why do we have to adopt a system that we do not know? Have we forgotten that principle in Spanish: "Es mejor una cosa conocida que otra por conocer"? Shall we begin trying for thirty-two or thirty three years another system, to see if we fail or not? Are we not observing the unicameral system as utilized by the big nations of the world? This Convention would undo what it has done and do what it has never done.

I invite the attention of the Members of the Convention to the several precepts that we have submitted to the Committee on Control. All the committees have parted from the supposition that our Legislature is bicameral. The Committee on Impeachment, for instance, has parted from the bicameral-system theory because it says that the legislative body is the one that will bring the action against the impeached official and that the Senate will be the judge. If we have studied the principles of guaranty, we have observed that they count on the existence of the Senate and the House of Representatives. Which body has the right to initiate bills? We say that the Philippine Legislature, or the higher and the lower house, and yet we have always parted from the supposition that there are two houses. And what will result if we implant here the unicameral system? What about those appointments the rejection or approval of which has to be effected "with the advice and consent of the Senate"? Are they going to stop automatically because the Senate is already obsolete? Shall we change the enactment clause, of all our legislation, "by the authority of the Senate and the House of Representatives"? Are we to assume a power that Congress has not granted us, to amend the enacting clause, when we are only a Convention?

If so, we may even alter acts of Congress in this sense, but there is principle of law: "Quot est delegatus non protest delegare." (What has been delegated cannot be delegated to another.) Congress has been delegated with certain powers to enact laws, but it cannot delegate these powers to us because we are only a colony, and we can not repeal an Act of Congress. We can imagine the result if we now adopt the unicameral system. There will be a great revolution in the Government, a paralyzation, unless we assume implied powers, but I believe that if Congress had intended to give us such powers, it would have embodied them in a law and not by implication.

In the Philippine Islands, before the implantation of the Philippine Senate, we were regulated by a Commission and the House of Representatives. And what did the Secretary of War Baker write to Governor Harrison? He found out that in the unicameral system the Speaker, considered second man in the Philippines, had attributed to himself certain executive powers, thus giving way to an encroachment unwarranted by the principles of Montesquieu of France and Blackstone of England.

It was stated here by one of the previous speakers that Franklin had uttered that the bicameral system is like a wagon pulled by one horse in front and another horse behind. I do not admit the parity or what we call "nego paritatem," because there will be stagnation if there is a negative force. I cannot admit that. On the contrary, we have progressed. And when did Benjamin Franklin state his opinion about the bicameral system? When they were discussing the Articles of Confederation, and what happened? Franklin lost, and the bicameral system was adopted. There is no use quoting the argument of a person who, in the end, lost.

The advocates of the unicameral system also argue the centralization of responsibility. Members of the Convention, the centralization of responsibility does not mean that we have to point to one person or two persons. There is a centralization of responsibility when we can point to an organization, even a department. You will agree with me that in the forty-four nations adopting the bicameral system, the legislative body has no responsibility or that there is no centralization of responsibility. The United States has been our teacher from the time they implanted their kind of government in the Philippine Islands. I believe that the argument of centralization of responsibility should be stricken out from the record; otherwise, the Congress of the United

States may read in the future what we have said, which is an indirect manifestation that the American Legislature has no centralized responsibility. In other words, we have said in effect that the Congress of the United States is an irresponsible organization. Mr. President and Gentlemen of the Convention, I would not stand long to covet your attention. I wish I could have prepared my speech in writing and brought some statistics and quotations to you, but I know that you are all with me when I say that the bicameral system is invoked in this organization, that the bicameral system is the guide of our committees, and you are not going to undo what we have done, if you do not want to destroy everything accomplished during the last days in this Convention.

MR. ROMERO: Mr. President, I yield ten minutes to the gentleman from Bohol, Mr. Cloribel.

EL PRESIDENTE: Tiene la palabra el Delegado por Bohol.

(El Presidente cede la presidencia al Delegado Sr. Romero.)

DISCURSO DEL DELEGADO CLORIBEL

MR. CLORIBEL: Mr. President and Gentlemen of the Convention: When I arrived in Manila to attend the Convention, I was asked by a reporter of a local weekly as to whether I was in favor of the bicameral system of legislature. Without hesitation and mental reservation, I told him that I would be for a bicameral system of legislature, provided that the present system was modified radically; otherwise, I would advocate the unicameral legislature. I have been led to believe ever since that the great object of the division of the legislature into two chambers is to destroy the evil effects of sudden or precipitate measures springing from passion, caprice, prejudice, personal influence and interest and party intrigues and discipline, which have been found from sad experience to exercise a potent and dangerous sway in all unicameral assemblies. In other words, the theory of the bicameral system of legislature is that one chamber is composed of men whose party discipline and affiliation, personal prerogatives, and political ambitions are diametrically opposed to those of the other chamber. The idea may be good in theory but has not worked out in practice. It may work out successfully in other countries but not in our country today.

During the early days of our participation in the Philippine Government in 1907, we had the Philippine Assembly. The Upper House was designated as the Philippine Commission. These two chambers were indeed the nearest approach to a successful bicameral system. It was because, the upper chamber was practically composed of men appointed by a power which had no connection whatsoever with the lower chamber. On the other hand, the Philippine Assembly or the Lower House was composed of men elected by popular vote from different representative districts throughout the Islands. The upper chamber derived its powers from the United States, whereas the Philippine Assembly derived its power from the people. The work of the Philippine Commission was shaped and guided by the policies of the Administration of Washington, while the work of the Philippine Assembly was local in character, largely in accordance with the instructions of the people. There was then a real system of checks and balances in the Legislature.

Upon the establishment of our Government under the Jones Law, with the Senate and the House of Representatives, we evolved into a party system of law-making, that is, the majority rules. Any man who demonstrated himself to be a real partyman must be a good follower. The leader to retain his power and leadership must be disciplinarian of the first order. The party rule resulted in uniting by ties of common interests, common prerogatives, mutual help and reciprocal cooperation the Upper House and the Lower House in such a solid body that, although separate, they now function as if only one and no longer check each other. And who checks the work of the Legislature in our system? It is no other than the Governor General through his veto power.

Mr. President, the supporters of the bicameral system base their contention on the theory of checks and balances,

alleging that the idea would prevent undesirable legislation by insuring a double consideration of all measures prior to their approval. In other words, the upper chamber would serve as a check to the lower chamber or vice versa upon hasty, rash, and ill-considered legislation. This used to be a very good argument in theory, but not now. In these days, especially in our country, conditions have so changed in the administration of the affairs of the Government that the operation of the bicameral system of legislature has been undermined and is no longer in keeping with the basic principles upon which they were founded. The most important factor that has rendered inoperative this basic principle of checks and balances is the development of well-organized and efficient political parties. With one party in control of the two houses which is the general condition in our political system, the checks-and-balances theory is next to impossible. Now, examining the practice of our Legislature here, and observing closely the measures properly denominated as party measures, especially those sponsored by the majority party leaders, reveal that such measures are not checked, regardless as to whether one house approves them or not. What the party leader does is to crack his whip, and the followers, like frightened sheep, fall in line and do as commanded. Proposed measures are baptized in caucuses behind closed door, in secret sessions. A measure that is blessed in a caucus is sure of passage. We have the case of the budget, of the sweepstakes bill. They are party measures, and we do not see one chamber checking the work of the other. Any controversy that arises is settled and arranged by the peace agency we call the conference committee.

Now, Mr. President, if one of the two legislative bodies tries to check the other by rejecting a measure, it is at once branded as non-cooperative, and its action becomes a cause for misunderstanding. Under the present system, the Government is divided into three branches—the executive, the judicial and the legislative. The checks, therefore, exist among these three branches: the executive and legislative checking each other, and the judiciary checking both by its decisions. What we need most is a unicameral system and a strong executive power to check the work of the Legislature through the veto power, which is a potent brake on legislative carelessness. Should an oppressive piece of legislation escape the executive knife, we still have the judiciary to nullify it. There are those who claim that unicameralism would result in tyranny and legislative despotism. But such a thing cannot happen here because our people are conscious of their rights, and we have an active, alert, and powerful public opinion to safeguard the rights of the citizens. The checks and balances are executed also by the party of the opposition which in compliance with its pledges to the people, checks the majority when the latter forgets its duties to the country. The party of the opposition will find favor in the eyes of the electorate. A second chamber, therefore, will be a superfluity, the theory of checks and balances but a fiction, an illusion, and sheer mockery.

The unicameral system of legislature is simple. It is nearest the heart of the people, since it directly deals with public problems. There is no passing the buck, which is likely in a bicameral legislature. When a group of electors, for example, petition the Senate to sponsor a certain piece of legislation, the Senators have all the chances to say, "Let the House of Representatives do it. It is their work and not ours." Or vice versa. If an unwise piece of legislation is passed, the electors cannot effectively lay the blame on their Representatives for the latter have a good reason of passing the buck to the Senators.

A one-chambered legislative body is efficient. It is less susceptible to the power of lobbyists. It passes measures without the need and intervention of the conference committee or secret caucuses. Problems are directly discussed on the floor, ample privilege and opportunity given to each member to air his opinions and make his contribution. There is no need of party discipline to pass a measure. The check is done by the executive branch of the Government. There is no such thing as duplication of work. The time consumed by the legislative body to pass a measure is reduced to one half without impairing its efficiency.

Above all, unicameralism means sure economy. We are now on the threshold of a new government. Upon the advent of our independence, our most vexing problem will be finance. We shall need money to reorganize

ourselves, money for new departments that may be created. We shall have to raise and maintain armies and fortify our country. We shall need many, many things for the war department, for example: machineguns cannons and battleships, which cost millions, and other implements for self-defense. According to military experts, we shall need at least 60,000 troops to garrison this archipelago of 7,000 islands: 1,000 miles long and 600 miles wide. Where shall we get the money? Can we afford to increase our taxation ten fold? Can we afford to further impose upon the small farmers, the retail merchants, and the laborers by increasing their problems ten times? God forbid.

In order to raise the necessary money to maintain our future Government, it is necessary for us to reduce expenses. Charity begins at home. Let the Legislature reduce its expenses first and thus lead the way for the other branches of the Government to follow. The most effective means of reducing, the expenses of the legislative branch of our Government is to abolish one of the chambers, thereby avoiding duplication of functions. The House of Representatives, with all its accessories, is spending P950,000.00 every year; the Senate, P470.000.00. If the lower chamber is abolished, many thousands of pesos can be save for our future army and navy. We need not increase taxation ten fold. If the Senate is abolished, we shall save enough money to employ 2,600 laborers at the rate of P180.000 pesos per year for each of them, an income which is quite sufficient for his daily necessities. The unemployment problem will be almost solved.

Mr. President, and Gentlemen of the Convention: There is no doubt about the advantages of the bicameral system of legislature, provided our country contains the diverse elements of population, like those of England or of the early days of the American colonies. In England the House of Lords is a permanent body, composed of large landholders and big interests. That Chamber is there to serve as a check upon any rash action of the House of Commons. In short, the House of Lords is a protector of the wealthy class. In the early days of the American colonies, or at the time the United States Constitution was drafted, the idea of an upper house origin-ated from the fear of the wealthy class which thought than a lower house, composed of representatives of the common people, might constitute a danger to their property. Consequently, delegates who represented the aristocratic class of the colonial provinces advocated the organization of the Upper House. Have we aristocrats or nobles in the Philippine Islands?

In this country, there are no distinct classes which correspond to those of the colonial days in America. We have no aristocracy; we have no royalty; we have no nobility. To be sure, we have wealthy people, but they are not anywhere like the landed aristocracy of England or of the colonial days. I want to say, Mr. President, that the reason for the existence of an upper house is out of date because in the Philippines we are very much alike in wealth and privileges. Therefore, we have no need of a Chamber like the Senate.

There are other reasons why in the Philippines we should establish a one-chambered legislature. The country is small, and its interests are more or less uniform throughout. If we organize an upper house, the only distinction between the membership thereof and that of the Lower house will be in point of age. Other justifications are identical. Our Senate in the Philippines has never represented any class. Finally, Mr. President, our psychology does not warrant a two-chamber legislative body. The bicameral system is suited to a people who are used to independent action. Filipinos, however, are too much inclined to follow a leader. This attitude or tendency defeats the purpose of the system of checks and balances of a bicameral Legislature. Our experience during the last quarter of a century has proved that our bicameral system might as well have been unicameral. Now that we are drafting the fundamental law of our country, may we not apply the system of other people? A unicameral system of legislature is, I believe, best suited to our idiosyncracies.

Let us now begin to consider the practical aspect of our problems. Let us face the issue squarely, without vacillation or mental reservation, feeling the sentiments and hardships of the people who want us here to undertake the gigantic task of constitution-making. By ap-proving the unicameral system, we shall inevitably

sacri-fice many important men in our Government, but if we are true to our ideals of democracy, let there be sacrifices, to the end that the people behind us, the common people whose conditions most need our attention, are spared.

LEVANTAMIENTO DE LA SESION

MR. GRAFILO: Mr. President, I move that the session be adjourned.

THE ACTING PRESIDENT (Mr. Romero): Is there any objection? (Silence.) The Chair hears none. The session is adjourned until tomorrow afternoon at 5:00 p.m.

Eran las 7:00 de la noche.

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