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Se abre la session a las 9:56 a.m. bajo la presidencia del Hon. Claro M. Recto.

EL PRESIDENTE: Lease la lista de Delegados.

SR. CANONoy: Señor Presidente, pido que se dispense la lectura de la lista.

EL PRESIDENTE: ¿Hay alguna objecion? (Silencio.) La Mesa no oye ninguna. Se dispensa la lectura de la lista. Hay quorum.

APROBACION DEL ACTA.

SR. CANONoy: Señor Presidente, pido igualmente que se dispense la lectura del acta, y que la misma se de por aprobada.

EL PRESIDENTE: ¿Hay alguna objecion? (Silencio.) La Mesa no oye ninguna. Aprobada.

MR. REYES (J.): Mr. President, I ask for permission to take the floor for a few minutes on a matter of personal privilege.

EL PRESIDENTE: Tiene la palabra el Caballero de Sorsogon.

DISCURSO DEL SR. REYES

MR. REYES (J.): Mr. President and Gentlemen of the Convention: I hold in my hand a copy of a daily paper published in Cebu, owned by the Delegate from the Second District of that province, Mr. Filemon Sotto. This issue of the paper, *La Revolution*, has the following news item:

MANILA, nov. 7 (RADIO)—Un gran publico, que lleno materialmente el salon de sesiones de la Asamblea, presencio los debates sobre el proyecto de Constitucion, que estaba bajo la ponencia del Delegado Filemon Sotto. El discurso de este duro una hora y media, pues llovieron sobre el las interpelaciones en castellano e ingles, que fueron contestados satisfactoriamente por el mismo. Despues del discurso de Sotto, se levanto el Decano Reyes (Delegado por Sorsogon), leyendo un discurso en donde se atacaba duramente el proyecto, por carecer, segun el, de filosofia. Se encargo de contestarle el Delegado Roxas (ex-Speaker), quien le apabullo impiadosamente a Reyes. Este avergonzado, tuvo que marcharse del sa-lon, sin esperar que Roxas terminara su discurso."

Mr. President and Gentlemen of the Convention, the President himself, the Secretary of the Convention, the Delegate from the First District of Sorsogon, Mr. Grafilo, know, because I informed them previous to the opening of the session on Tuesday afternoon, that if I had to leave the session hall after my speech, it was due to a previous engagement. Much to my regret, I entirely missed the pleasure I would have had in listening to the magnificent oration of the Delegate from Capiz (Mr. Roxas) for whom I have great personal admiration. I would have been pleased to listen to his speech, even if, as the newspaper item assert, he manhandled me, because the pain I would have had in seeing my bran-child slaughtered would have been compensated for by the artistry of his oration.

But it is not true, as this news states, and whoever was the origin of this information knows it is not true, that I left this session hall after listening to the arguments of the Delegate from Capiz, because I retired from the session hall immediately after my speech without having experienced the effects of his speech. The insinuation contained in this dispatch—and if there are any in the Convention who hold a view in harmony with this insinuation—that I hesitate to sustain the theories and the thesis set forth in my first speech, to them I answer: ask permission from the Constitutional Convention for an opportunity for me again to stand before the Delegates, and I will, to the best of my ability, maintain the four or five points I mentioned in my opening speech on the debate on the draft of the Constitution as a whole. That, in spite of the magnificent oration of the Delegate from Capiz (Mr. Roxas), in spite of the learned speech of the Delegate from Laguna (Mr. Benitez), in spite of the great constitutional speech of the Delegate from Batangas (Mr. Laurel.)

Mr. President. I want to speak restrainedly. I may not say more because I am afraid I will get out of the limits permitted by parliamentary procedure. But in conclusion I wish to say this: that the facts as related to this news item, as well as the insinuation contained therein, represent a complete distortion of the truth.

MR. NIERE: Mr. President, will the Gentlemen yield ?

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

MR. REYES: (J.) Willingly.

MR. NIERE: Is it true that after your speech your Honor went away? Does your Honor admit that assertion?

MR. REYES: (J.) I will answer the Gentleman from Cebu by asking him another question.

MR. NIERE: It is my turn to ask. Will your Honor please answer my question?

MR. REYES: (J.) I am going to answer the question, with your Honor's permission, in my own way, Is it not true that the debate on the draft was scheduled, in accordance with the original special rules, for Monday afternoon and not Tuesday?

MR. NIERE: Well, I will not answer the question because it does not pertain to my own at all. My question is whether the Gentleman left after he had delivered his speech.

MR. REYES: Before answering his question, I would like to ask the Gentleman from Cebu if he wants to assume personal responsibility for the statements contained in the news item.

MR. NIERE: Gentleman, I don't; I want only to ascertain whether it is true that the Gentleman went away after he had delivered his speech. It is the assertion of this news that you did.

MR. REYES: The claim that I went away after listening to a few remarks of the Gentleman from Capiz this, as the Gentleman from Cebu knows, and as every other member of this Convention knows, is absolutely false.

MR. NIERE: But what I want to know, is whether the Gentleman went away after Speaker Roxas began delivering his speech.

MR. REYES: As a matter of fact, I went away before Speaker Roxas got the floor, and the Delegate from Capiz himself will bear me out on this. I ask the Delegate from Capiz if my statement is not true.

MR. MARAMARA: Mr. President, will the Gentleman yield?

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

MR. REYES: With pleasure.

MR. MARAMARA: Does the Gentleman know the owner of that newspaper?

MR. REYES: Yes; Delegate Filemon Sotto from the Second District of Cebu.

MR. MARAMARA: Does the Gentleman know the editor?

MR. REYES: At present, I do not know.

MR. MARAMARA: Formerly.

MR. REYES: Formerly, according to the best of my information. Delegate Filemon Sotto.

MR. MARAMARA: I thank you.

EL PRESIDENTE: Consideracion del proyecto de Constitucion.

Tiene la palabra el Delegado por Batangas.

SPEECH OF DELEGATE LAUREL ON THE DRAFT OF THE CONSTITUTION

MR. LAUREL: Mr. President, with all the merits that must be accorded the draft of the Constitution, there is one outstanding defect that cannot be overlooked. Many provisions or precepts which have no place in constitution have been inserted, and the criticism of the draft on this ground is, in my opinion, justified. Surplusage abounds, and the draft violates the essential requisites of a good written constitution. It is elementary in constitution-making that the charter must contain only the essentials, the fundamentals. It must be brief. We are not legislating in the ordinary sense of the word; we are laying the foundations of the Government and must only incorporate the basic principles, and in so doing let us begin from the end of the draft.

Article XIII — General Provisions

Section 1 of this Article begins with what I consider as commonplace. It provides that "the defense of the State is the prime duty of government." The State, as a body politic, is a concept which implies territory, population and government. States, like individuals, possess the inherent right of self-preservation, and the Government as an instrumentality of the State is the physical power behind the State. It is trite, therefore, to say that the Government must defend the State as it would be to say that the Government must defend itself. Then, after such a meaningless pronouncement, the article goes on to say that "in the fulfillment of this duty all citizens may be required by law to render personal, military or civil service," a provision which is not objectionable by itself and is found in some modern constitutions, but which, in my opinion, should be stated, if at all under Section 3 of Article IV (Citizenship).

Section 2 of the article, which states that a national language is necessary to strengthen the solidarity of the nation and that the National Assembly shall take steps to adopt a common language, is but a mere expression of a longing of our people for a national tongue. I for one join in this expression of hope, but if we cannot adopt a national language now, we had better not say anything more about it in the Constitution because a constitution, I take it, is not a document for mere verbiage of sentimental expressions of this kind.

Section 3 concerns with the rearing of the youth in physical, mental, moral, and social efficiency as the highest duty and natural right of the parents, etc. With this provision we are making of the Constitution a code of morals or ethics. I do not think we should do that. Family relations are pretty well governed by the Civil Code, and well commented upon by Manresa, Mucius Scaevola and Sanchez Roman in our jurisdiction. Upon the other hand, the Constitution is not the place for a restatement of natural law because, with or without the Constitution, natural law continues to exist. Natrual rights are extra-legal and extra-constitutional forces acting outside of the Constitution in the interest of humanity and human civilization, so we are told by Mr. Justice Miller of the Supreme Court of

the United States. If certain natural rights are in a way restrained in the Bill of Rights, that is done not for the mere purpose of confirmation or enunciation, but as a limitation upon the powers of the Government, its agencies and officials, for the protection of the individual citizen in his relation with the Government and its agencies.

And so also, in Section 6, in a dogmatic way, the draft philosophically postulates on marriage, as the German and other constitutions have done, and then adopts the novel, anachronistic and violent provision regarding equality of civil rights of both sexes. The criticism of this section of the draft by my distinguished Colleague from Batangas (Mr. Orense) is, in my opinion, well-founded.

And this part of the draft goes on to provide for the organization of a National Research Council to promote scientific research and invention, a National Economic Council to safeguard social progress and plan national economy, in bombastic expressions, ending with a radical and revolutionary provision of the Mexican type which authorizes the limitation of ownership of private agricultural land; and then mixes up all these provisions on marriage, parental authority, national language, national defense, scientific research, social and economic progress, education and religious instruction with the conservation and nationalization of our natural resources, instead of devoting a separate article to the last vital and all-important subject.

This article is the most unfortunate part of the draft, because it is a sort of dumping place for percepts reported by committees that had to be taken care of somewhere in the draft. The revamping of this article is necessary.

Other features of the draft may be referred to as requiring, if not reformation or modification, at least some explanation:

Section 2, Article VII, requires, for membership in the National Assembly, five years' citizenship of the Philippine Islands, whereas Section 14 of Article X requires justices of the Supreme Court and Courts of Appeals to be natural-born citizens. We seem to give less sentimental weight to citizenship as regards membership in the National Assembly. Is there any real potent reason for this distinction?

I observe that we are creating two Courts of Appeals and authorizing the creation of a third one, and as I examine the provisions in this regard, I am afraid we are complicating our judicial system in an attempt to give relief to the Supreme Court. I prefer to touch upon this matter when we come to discuss in detail this delicate part of the draft.

We are conceding to the Supreme Court the "ruling power" in matters of pleading, practice and the orderly conduct of business in all courts, following progressive legislation in the several States of the United States, reserving, however, to the Congress supervision and control over those rules, or the "power to repeal, alter, or supplement any rule of pleading, practice or procedure adopted by the Supreme Court" (Sec. 17, art. X), which dual or overlapping authority will undoubtedly give rise to conflict and confusion. It would perhaps be preferable to surrender this power completely to the Supreme Court.

In connection with the designation of the members of the Supreme Court for the Electoral Commission (Par. 6, Sec. 3, Art. VII and Sec. 7, Art. IX) it is perhaps desirable that such designation be made primarily in the order of the dates of their commission.

A power that is both unprecedented and dangerous is the power vested in the President to veto "any separate source of tax included in any revenue or tariff bill" (Par. 6, Sec. 5, Art. VII). This is not found in the Jones Law nor in the Constitution of the United States. Under the Jones Law and our draft, the partial veto of the Chief Executive is limited to an appropriations bill. Now, it is desired to extend this authority to revenue and tariff bills. This is a dangerous power as the Executive may single out particular sources of income or articles and thereby discriminate in favor or against. The authority thus given will impair legislative authority and add to the already overwhelming powers of the Executive. We are giving all the powers that the Executive needs to make of him a

really strong Chief Magistrate, and here we should stop.

Article V deals with immigration. Considering the tenseness of the provision inserted in the draft that "the National Assembly shall by law regulate immigration of aliens into the Philippines", it would perhaps be advisable to eliminate this article entirely from the draft. Upon the other hand, the requirement that annual quotas of immigration shall be equal and uniform from all countries, while expressive of sound policy — equal treatment, regardless of nationality or race — may lead to impotency of the national government in the adoption of retaliatory measures in case other countries should subject our citizens to the indignity of complete exclusion from their territories. Should Japan, for example, exclude Filipinos from her territory, the Philippine Government, if the provision is retained, will nevertheless be bound to grant the quota to Japan on a par with the other nations. This is unjust to the Filipinos.

Article IV on citizenship adopts exclusively the doctrine of *jus sanguinis* and provides that "all persons who are Philippine Citizens at the time of the adoption of this Constitution and their descendants are citizens of the Philippines." The rule is very strict and thereunder children born here of Filipino women by Americans are not citizens, nor given any option, which is also true of children of foreigners born in the Philippines, to become citizens of the Philippines. A happy medium between the *jus soli* and *jus sanguinis* should be struck, in the light of the Spanish Civil Code, the United States Constitution and the decisions of our own Supreme Court. This is possible.

The last sentence of Section 3 of Article IV reads: "Suffrage is a public duty which should be exercised by all those who are qualified under the law." This is entirely out of place and should, in my opinion, be inserted somewhere under Article VI on suffrage, for reasons that are evident.

We have as Article II a declaration of principles. and in this article we make reference to the different colors of our flag. I do not see the necessity for making reference to the flag in the Constitution. The reasons may be purely sentimental, but there is no abstract principle that it can embody or symbolize that is not expressed in the preamble. I also doubt the advisability of inserting in the Constitution a categorical expression that "the Philippines renounces war as in instrument of national policy." This is unnecessary and may be impracticable. I think that it would be better to completely delete this Article II (declaration of principles) from the draft.

The preamble sounds well, indeed, but in my opinion somewhat bombastic and plagiaristic at that. I say this, notwithstanding the great importance attached by Chief Justice Taft to the preamble of the Constitution of the United States. The Constitution of the French Republic, adopted November, 1848, recites the following preamble: "IN THE PRESENCE OF GOD, AND IN THE NAME OF THE FRENCH PEOPLE, THE NATIONAL ASSEMBLY PROCLAIMS..."

All the defects noted may easily be corrected, or remedied. We certainly can improve upon this draft. I have somewhat haphazardly criticized the draft, mentioning its merits and demerits. Now permits me to make my conclusion.

C o n c l u s i o n

Considered as a whole and viewed in its totality, and overlooking the defects which, in my opinion, may be corrected either by elimination or coordination, I dare say, in all sincerity, that the draft now submitted for the consideration of this august Body is a deserving and meritorious piece of work. In the main, whilst conservative in its essential features, the draft is not so conservative as to preserve and retain outworn principles, practices and methods which have become atrophied, as it were, with the lapse of time and progress of human civilization, but has incorporated changes and innovations which are progressive and constructive.

This conclusion does not mean, however, that the draft may be approved as it is. I have pointed to defects which, in my opinion, should be corrected. Figuratively speaking, I approve of the basic foundation of the great structure, including the massive supporting pillars thereof, but I dislike the contours of the edifice, the rather poor aesthetic sense of the architects for including unnecessary projections and exaggerated ornamentations which are not part of architectonic wisdom, a defect to be attributed not to their ignorance of the science of architecture or lack of proper realization of the scope of the great work entrusted to them, as suggested by the esteemed Gentleman from Sorsogon, (Dlegate Reyes), but to their zeal and eagerness to bring to the fore a fabric that is at once massive and strong, attractive and beautiful.

By preserving the fundamental and the structural, modifying and improving upon the specifications and the details, and eliminating the unnecessary and the superfluous, and with a little more care in workmanship, I express the sincere hope that we shall be able to produce a work whose appraisal can be made only through appreciation of the difficulties that we have confronted in the arduous task. We may not produce a constitution which, like that of Malolos, will elicit a glowing tribute from a United States Senator (Senator Hear) or a constitution, like that of the United States, which was pronounced by Lord Gladstone as "the greatest instrument ever struck off by the brain and purpose of a man at a given time." Suffice it to say that we do not enjoy the freedom that the framers of the Malolos Constitution and of the American Constitution enjoyed when they formulated those time-honored document? Limited and restricted in our powers, we are doing the best we can within the circumscribed sphere of action. Let us therefore lose no time hunting for the "seeds of immortality", which the distinguished Delegate from Sorsogon (Mr. Reyes) found wanting in this draft. After all, those seeds are not found in any constitution because they are stored elsewhere; they are found planted deep, in exuberant growth and in foliage luxuriant, in the hearts of a compact and united people. As Von Ihering tells us, the strongest bond that unites a people is neither the Constitution, nor the law, nor the Government. What forges and solidifies is the common tradition, the common pride, the common interest, the mutual affection, the willingness of all to labor, sacrifice and die for a common aspiration. This is what the Gentleman from Cebu (Delegate Cuenco) had in mind, I take it, when he referred to many a constitution in South America that failed, however perfectly conceived and beautifully drawn. Let us not be pessimistic and augur failure at the start — as the brilliant young Delegate from Camarines Norte (Mr. Vinzons) has done— by anticipating a dreary search, with the lamp of Diogenes, for the "seeds of destruction." The time will not be propitious for the hunt, because it will then be a dark and lonesome eve! The Constitution that we shall approve on the basis of this draft now before us for consideration is to be the expression of gigantic and unprecedented efforts of thirteen million Filipinos. That document cannot and shall not contain the venomous hemlock, "the seeds of its own destruction." Let us all hope that the Constitution that we shall finally adopt will offer to our people if not perchance the "seeds of immortality" at least the precious bud of an enduring¹ constitutional government, the bud, as it were, of the sturdy Oriental Molave tree, nurtured on a common soil of affection and veneration of our people, there to grow and take firm root — to grow gnarled and staunch and great of girth with the passing of the years.

(A las 10 a.m., el Presidente cede la presidencia al Sr. Gutierrez David.)

MR. MARAMARA: Mr. President, just for one question.

THE ACTING PRESIDENT (MR. Gutierrez David): The gentleman may proceed.

MR. MARAMARA: Suppose the law on succession is passed, who will sign the bill? How can the bill be effective without the signature of the President?

MR. ROXAS: May I answer that? That could occur just after the first election when the President might not be inaugurated yet, but in case the President or the Vice-president fails to qualify, I suppose that there will be another

election because the Governor-General will not have yet turned over his office to the Commonwealth.

MR. LAUREL: My point is that, in certain constitutions, we find provisions regarding the holding over. Of course, I am putting up a situation which is rather extreme or extraordinary, but in certain constitutions that I have examined I have always upheld that provision in regard to the holding over of the President. In case of the inability of the President-elect, you have the incumbent President to hold over the office until the qualification of the President-elect.

MR. ROXAS: Mr. President, just on that point I want to make it very clear that the committees, the original and the Sub-Committee of Seven, have taken care that, under no circumstance, by whatever reason, can a President prolong his term of office. We base the inauguration of the next President upon the expiration of the term of office of the last incumbent. We do not permit, under any circumstance, the prolongation of office.

MR. LAUREL: And that is precisely in consonance with the idea of prohibiting the re-election of the President, of prohibiting him from having his period of office longer than that provided for. But the Gentleman from Capiz has admitted the situation for the National Assembly. That is why we have come to an agreement not to raise that question, but at the same time we are creating a vacuum in the Constitution in not covering a possibility of that nature.

MR. CABILI: Mr. President, just for information from the Gentleman from Capiz.

THE ACTING PRESIDENT (Mr. Gutierrez David): The Gentleman may answer if he so desires.

MR. ROXAS: Willingly, Mr. President.

MR. CABILI: In ease the election of the President will be delayed because of holding over, so that the election for representatives of the National Assembly will be in August, thus creating the possibility that the National Assembly will meet prior to the inauguration of the President of the Commonwealth, what will happen during the intervening time?

MR. ROXAS: Nothing will happen during the transitory period. That question will be taken care of by the provisions of the Constitution.

MR. SANTOS: Mr. President.

EL PRESIDENTE INTERINO (Sr. Gutierrez David) Señor Delegado por Nueva Ecija,

DISCURSO DEL DELEGADO SANTOS

MR. SANTOS: Mr. President and Gentlemen of the Convention: It takes much courage to make a stand against the preceding speaker who is a recognized authority on constitutional law. Fortunately, however, I am making here a stand not exactly opposite to what has been mentioned by the Gentleman from Batangas, but a middle stand, not advocating a complete centralization of powers but retaining such power's that may be consistent with the national strength of our Government. At the same time I may be fortunate in that I am one of those who advocate and believe that our Constitution as a whole is really deserving of praise and complies with the requisites of a good constitution.

That the draft of our Constitution has elicited words of commendation even from Washington is a very significant sign of the success of the Convention. But no man can be perfect, and no human work or endeavor can be perfect. Just as there are very commendable precepts and provisions contained in the draft of our Constitution, so there are some loopholes which should deserve further attention from this august Body. Believing, therefore, that the criticisms that have been launched and will be launched against some phrases of the Constitution have not fallen and will not fall on deaf ears, but will merit the attention of the Gentlemen of the Convention, and on a spirit to

cooperate and not to obstruct, I shall proceed to dwell first on what I consider the particular phases that need to be incorporated or improved, and later on to dwell on the bright side of the draft.

Our Constitution is very satisfactory from a national point of view, but I believe that it has the following defects:

First — It has failed to meet the demand of the people for a more autonomous framework of government for our provinces and municipalities.

Second — While the Constitution contains a provision to the effect that sovereignty resides in the people, it does not provide for local self-government, which is the real basis of Democracy and a republican government.

Third — In actual practice and in accordance with the provisions of the draft of the Constitution, sovereignty resides in the Legislature, and the powers and prerogatives, which the people may exercise in the provinces and municipalities, shall emanate from the Legislature.

Fourth — Over and above all these powers and prerogatives granted by the Constitution to an all-too-powerful National Assembly, the Constitution has made it the only chamber, without therefore the "proper check and balance" of a co-chamber.

Fifth — The Permanent Commission, intended to take the place of the Senate, will originate the bitterest struggle and animosities in the National Assembly, and may not rise to the level of the Senate.

Sixth — While the Constitution provides for the creation of two branches of a Court of Appeals, it does not meet the crying need of the people to change the present administration of justice in our towns by the Justice of the Peace Courts.

Seventh — It has failed to meet the demand of the present financial crisis, i. e., economy.

1. IT HAS FAILED TO MEET THE DEMAND OF THE PEOPLE FOR A MORE AUTONOMOUS FRAMEWORK OF GOVERNMENT FOR OUR PROVINCES AND MUNICIPALITIES.

The Constitution draft, it is true, has made a republican framework of government for the central government; but it has failed entirely to meet the crying need of the provinces and municipalities for a more autonomous framework of government for the provinces and municipalities. Other constitutions, like those of Spain, Turkey, Mexico, China and many other countries, have done so, not forgetting¹ that republicanism should start from the very bottom of the government framework. That there is a crying need for a change in the framework of our government for the provinces and municipalities may be judged from the numerous communications and petitions that may be found in the record of this Convention, coming from many parts of the Islands urging more autonomy for the provinces and municipalities. The very fact that 80 delegates of this Convention have signed a resolution urging the amendment of the draft so as to include the reports of the Committee on Provinces and Municipalities and the Committee on Special Provinces, which reports grant greater autonomy to localities, shows that there is a respectable opinion in this Assembly in favor of the move for greater local autonomy. The editorial of *La Opinion* for August 8, 1934, which in part is as follows, shows that public opinion is in favor of granting greater local autonomy:

"Es pues, necesario que en la futura Constitucion, exista una declaracion que garantice el ejercicio de libertades y autonomias minimas por parte de las provincias y municipios, protegiendolas eficazmente contra la tendencia centralizadora y absorbente del gobierno."

2. WHILE THE CONSTITUTION CONTAINS A PROVISION TO THE EFFECT THAT SOVEREIGNTY RESIDES IN THE PEOPLE, IT DOES NOT PROVIDE FOR LOCAL AUTONOMY, WHICH IS THE REAL BASIS OF DEMOCRACY AND A REPUBLICAN GOVERNMENT.

3. IN ACTUAL PRACTICE AND IN ACCORDANCE WITH THE PROVISIONS OF THE DRAFT OF THE CONSTITUTION, SOVEREIGNTY RESIDES IN THE LEGISLATURE, AND THE POWERS AND PREROGATIVES WHICH THE PEOPLE MAY EXERCISE IN THE PROVINCES AND MUNICIPALITIES SHALL EMANATE FROM THE LEGISLATURE.

The distinguished Delegate from Capiz says that our Republic being unitary, the provinces and municipalities are mere creatures of the central government, citing as an instance the French Republic. This statement may be true, but it was not the French Republic that destroyed local autonomy. It was the French Monarchy under Louis XIV that destroyed self-government in the French provinces and municipalities, for the purpose of strengthening the king's powers and the central government. At that time in French history, there was a very keen struggle between democracy and autocracy (see Wilson's *The State*, Sections 336 and 380). And it was a great mistake of the French Republic that the liberties and privileges, which the provinces and municipalities previously enjoyed, were not restored. Until at present, one of the greatest problems that France faces internally is how to restore the autonomy or self-government of the local units.

There is indeed a difference between democracy in form and democracy in substance, as one constitutional commentator has well said. France is a republic but she does not enjoy democracy in substance. While England is a monarchy in form, more democracy exists there than in France. The United States of America and Switzerland are the only nations in the world that enjoy democracy in form and in substance. In the United States, counties and townships enjoy sufficient local autonomy and, for that reason, it is in the United States where one will find true democracy. Lord Bryce was right when he said that local self-government was prevalent throughout the United States.

In advocating local autonomy for our provinces and municipalities, it is my fervent hope that we shall establish a real and true democracy in this beautiful islands of the Orient seas.

Democracy to prosper and to last in the Philippines must be implanted into Philippine soil. It must be given sufficient time and opportunity to spread its roots to every nook and corner of the country. It must be brought to the people of our towns and barrios; it must be given a chance to grow and develop. As our Government in the early American regime spread education to every town and barrio, so must the Commonwealth or the Republic spread the doctrines of self-government and democracy. Only by doing this can we make the governments of our provinces and municipalities the training school for Philippine democracy.

It has been said that democracy is a failure in Italy, for it has given way to fascism; that in Germany it has also surrendered to fascism; and that in Russia it has been replaced by communism. But why has democracy been a failure in Italy, Germany and Russia? It is because the Italians, Germans, and Russians have never been prepared for democracy. Before the advent of democracy, the Italians had been so accustomed to the autocracy of the ruling princes, the Austrian rulers, that there was really no ground prepared for democracy. Germany has always been a militaristic nation, accustomed to hard rules and discipline; to a German mind, democracy is incomprehensible. During the reign of the Czars, the Russians were serfs and very ignorant so it was natural for them to turn to communism and not to democracy. Yes, I repeat, Mr. President, democracy has been a failure in Italy, Germany, and Russia because the people of those countries were not prepared for a democratic government. Democracy cannot be built in a day. Democracy will not fail in the United States, England or Switzerland because American, English and Swiss democracy has taken root in such countries; their democracy was built on the basis of local self-government throughout their respective territories.

In accordance with the provisions of the Constitution, sovereignty does not reside in the people. It resides in the Legislature. It is true that the members of the National Assembly are elected by the people. But once the National

Assembly is constituted as one of the branches of the central government, it will forget local autonomy, for history shows us that the fight for local autonomy is a fight between the central and local governments. It is very clear, therefore, that the Constitutional Assembly is the only non-partisan body that has ever met or will ever meet, the only body that is in a position to consider the granting of local autonomy to our local units. It is a clear fact well known to us that our provinces and municipalities used to enjoy more autonomy than they do now. It is because the central government has gradually but consistently adopted a policy of diminishing and diminishing the self-government in the provinces and municipalities. The central government has adopted a policy of making the provinces and municipalities more and more dependent on the Department of the Interior. A provision, therefore, in our Constitution, of the following tenor, is very timely, at least in preventing the gradual extinction of local self-government in the Philippines.

"The National Assembly shall grant from time to time to the provinces and municipalities such measures of autonomy as may be consistent with existing conditions.

"The National Assembly cannot curtail or otherwise diminish the autonomy now enjoyed by the provinces and municipalities."

4. OVER AND ABOVE ALL THESE POWERS AND PREROGATIVES GRANTED BY THE CONSTITUTION TO AN ALL TOO-POWERFUL NATIONAL ASSEMBLY, THE CONSTITUTION HAS MADE IT THE ONLY CHAMBER, LACKING THEREFORE THE PROPER CHECK AND BALANCE OF A CO-CHAMBER.

John Stuart Mills, a well-known political scientist, has the following say:

"It is very important that no set of persons should, in government affairs, be able, even temporarily, to make their *sic volo* prevail without asking anyone else for his consent. A majority in a single assembly when it has assumed a permanent character, when composed of the same persons habitually acting together and always assured of victory in their own house—easily becomes despotic and overbearing, if released from the necessity of considering whether its acts will be concurred in by another constituted authority."

A single chamber has the tendency of becoming despotic. If we add to this circumstance that that single chamber will be the source of all the powers and prerogatives that our provinces and municipalities will enjoy, we can easily see how much power and how much opportunity to become despotic and overbearing we have put in the hands of our National Assembly, without any "check or balance of a co-chamber". The veto power of the Chief Executive is not properly a "check and balance," because it can be overridden by a two-thirds vote of the Legislature.

5. THE PERMANENT COMMISSION, INTENDED TO TAKE THE PLACE OF THE SENATE, WILL ORIGINATE THE BITTEREST STRUGGLE AND ANIMOSITIES IN THE NATIONAL ASSEMBLY, AND MAY NOT RISE TO THE LEVEL OF THE SENATE.

The advocates of unicameralism, realizing the need of a smaller body to confirm appointments and ratify treaties with other nations, have adopted a novel creation known as the Permanent Commission. The success or failure of such a creation will of course be a matter of experiment. But it is very apparent that, because of the importance of the duties that the Permanent Commission will perform, there will be a scramble for membership in that commission. The bitterest sort of struggle among members of the same party will arise. A sort of political aristocracy will be created in the Assembly. This became possible when many delegates voted for unicameralism just because they considered the senators as a sort of political aristocrats. The Constitution, therefore, has sown the seed of discord among the members of the same party.

6. WHILE THE CONSTITUTION PROVIDES FOR THE CREATION OF TWO BRANCHES OF A COURT OF APPEALS, IT DOES NOT MEET THE CRYING NEED OF THE PEOPLE TO CHANGE THE PRESENT ADMINISTRATION OF JUSTICE IN OUR TOWNS BY THE JUSTICE OF THE PEACE COURTS.

If we examine the records of the Bureau of Justice, we will see how many justices of the peace should have been dismissed, suspended, fined or punished administratively. This shows that there is something defective in the system. If you go to the towns and provinces, you will see that the complaints of the common "tao" are generally against the justices of the peace who are in daily contact with the common people. At present there are more cases of miscarriage of justice in the usual proceedings of the justice of the peace courts than in any other court. Ninety per cent of our population are poor and cannot afford to pay the expenses of a litigation in the higher courts.

Our Constitution has provided the National Assembly with the dictatorial power to create courts of justice. But, Gentlemen of the Convention, the task of the Government in the administration of real justice to the people should be made in the justice of the peace courts, although our courts of First instance and the Supreme Court are in any humble opinion beyond reproach.

The Bright Side of the Draft of Our Constitution

Having noted in the various phases of the draft of the Constitution the parts that, in my humble opinion, are defective or need improvement, I shall now go to the bright side of the proposed fundamental law, the parts that constitute its strength.

In the first place, the draft has complied with the requirement of the Tydings-McDuffie Law that a republican form of government be adopted. A separation, though not complete, of the different branches of the Government is maintained, with a thorough, detailed, and very liberal bill of rights. An independent judiciary and civil service, a very strong executive branch, and a guarantee for the proper expenditure of the public funds by the creation of our independent auditor's office, are the salient features of the draft which commend the same to the general approval of the people.

But the strongest part of the draft may be found under the General Provisions. It is here where the patriotism and the nationalistic tendencies of the Filipino people at present are revealed. The defense of the State as a duty and obligation of every citizen, the development and establishment of a national language, the duty of the parents towards their children, the maintenance by the State of at least a free public elementary education for all the inhabitants of the country, the promotion of scientific research and invention, the limitation as to the extent of private ownership of lands, the reservation of all agricultural, timber and mineral lands of the public domain to Filipino citizens or to corporations of Filipino citizens, show the wisdom and statemanship of those who may be dubbed afterwards as the framers of the Constitution. But the most human side of the Constitution is that which consists of the provisions relating to the protection of the family, the children, and the recognition of the principle of State intervention and the protection of labor and the laboring class.

Mr. President and Gentlemen of the Convention, modesty aside, I believe that our draft of the Constitution is something to be proud of, but it still can be improved and still can be made more responsive to the demands of the people. If the members of this Convention adopt in the proper spirit the suggestions being made, I sincerely believe that, after a thorough and complete deliberation of the draft and of the proposed amendments, we can here evolve a Constitution that will be enduring, responsive to the will and desire of the people, and a source of pride to the Filipino people: the best that has ever been drawn in this part of the globe.

EL PRESIDENTE: Tiene la palabra el Delegado, Señor Locsin.

DISCURSO DEL SR. LOCSIN

SR. LOCSIN: Señor Presidente y Caballeros de la Convencion: Creo con Gandhi que pueden destruir solamente aquellos que saben construir. Conociendo mis humildes alcances, soy el primero en reconocer que el documento que tenemos delante tiene sus meritos intrinsecos. Los que nos levantamos para ofrecer ciertos reparos al mismo, lo hacemos con el espiritu de rendir un retoque de superacion doctrinal y estetica y lo hacemos con la licencia de una fraternal camaraderia y a impulsos de los deberes jurados.

Se ha dicho por el distinguido Caballero de Capiz, Señor Roxas, que el proyecto no adolece de falta de politica porque incorpora mas de una. Nosotros decimos que santo y bueno si todas las filosofias son afines, pero cuando envuelve el documento filosofias contradictorias, queremos decir que la preponderancia de la tesis reaccionaria que sera trabajada por talentos nacionales, puestos al servicio de organizaciones millonarias, determinara, con su consiguiente reaccion opuesta, a las masas liberales que, en medio de la pasion de la lucha, forzosamente se agregaran para la defensa de su vida a las determinaciones desesperadas de las multitudes.

El proyecto, en su titulo 2 sobre Declaracion de Derechos, es eminentemente individualista, y tal como esta redactado este titulo, inequívocamente en un estilo que podra hacer honor al pensador republicano mas "enraged" sobre teorias de gobierno, tiene su antitesis en el titulo 13 del Proyecto en donde ya se hace concesion a los imperativos socializantes de los actuales momentos. Pero el articulo 13 esta enunciado con ciertas reservas mentales que en su conjunto se parecen a una parte del concepto roosveltiano de gobierno.

En el titulo III, parrafo II, se enuncia lo siguiente: "No se dictara ninguna ley que monoscabe una obligacion contractual." No hallamos disposicion semejante en ninguna Constitucion de Estados modernos, aun de los mismos Estados Unidos; pero si se halla en algunas Constituciones de la Union norteamericana y en nuestra Ley Jones. Quiero llamar la atencion de los compañeros al hecho de que la Ley Jones es una carta organica impuesta y mal puede sentar precedente en las concepciones reivindicatorias del pueblo. Quiero advertir tambien que al pais, en trance de ser independiente, se le ha impuesto un periodo de espera de diez años para reajustar los valores nacionales a las nuevas condiciones de una Filipinas independiente. Este enunciado que pone "noli me tangere" a las obligaciones contractuales, limita el poder del Estado para arbitrar nuevas relaciones de valores sociales y economicos del pais y aplicarlos a las nuevas condiciones politicas. Quisieramos preguntar: Como puede compaginarse este enunciado con el articulo 7 del Titulo XIII, en donde el Estado, en interes de la llamada justicia social, extiende total proteccion al trabajo y regula las relaciones entre el capital y el trabajo entre terratenientes y propietarios tanto en la agricultura como en la industria?

Ayer quise preguntar al distinguido Caballero de Laguna, Señor Benitez, miembro del Subcomite de Siete, sobre la concepcion basica de este Subcomite en cuanto a ese enunciado de justicia social para prefijar los terminos a fin de evitar conflictos entre principios enunciados en un solo documento. Desafortunadamente, no obtuve una respuesta categorica del Caballero de Laguna; pero si por justicia social entendemos la distribucion equitativa de la economia social forzosamente esta disposicion sera imposible frente a los deseos de la Asamblea Nacional, en virtud de este enunciado de la inviolabilidad de las obligaciones contractuales.

La Declaracion de Derechos fortifica la posicion del individuo dentro del Estado. De hecho no ha sido creacion de los que fueron autores del draft original de la Constitucion de los Estados Unidos. Es una adicion acordada diez años despues. Pero acto seguido de su incorporacion, el pueblo americano, por medio de sus representantes constitucionales, aprobo y sanciono la novena enmienda a la Constitucion, que dice textualmente: "The enumeration of the Constitution of certain rights shall not be construed to . . ." No encontramos un precepto similar a esta novena enmienda en el esbozo de Constitucion que estamos hoy discutiendo. ¿Que interes se quiere proteger con la incorporacion del parrafo II del Titulo III del proyecto que estamos discutiendo? Desgraciadamente, se me presenta en la mente hoy que este es un postulado que ha de fortificar grandemente la posicion de las grandes corporaciones que manejan centrales azucareras. Pensamos que la razon de los 10 años de

periodo de transicion es para preparar al pais y a los filipinos a las consecuencias de la independencia, y una de estas consecuencias es la perdida del mercado americano para los productos de exportacion de Filipinas. Bajo los terminos de los contratos entre centrales y plantadores y la experiencia de estos ultimos años en que el pais esta experimentando una depresion economica y aun en todo el mundo, se destaca el hecho de que con depresion o sin depresion, las centrales azucareras constituyen una mina de oro riquisima e inagotable mientras que el negocio de plantacion apenas da una ganancia que de de comer al que la explota y al que la trabaja. Con una ansiedad viva y cordial, la poblacion rural y proletaria de los distritos azucareros ha estado esperando los cambios fundamentales en virtud del establecimiento del Commonwealth que el pais ha recibido. Cifrando sus esperanzas en los cambios, tambien sufriran cambios los valores de su situacion social y economica, una vez reintegrada toda la soberania a los representantes del pueblo.

El hecho es que 95 por ciento de la poblacion de los distritos azucareros estan llenos de sal y morisqueta. Si los compañeros se imponen de este hecho, espero que en la hora de las decisiones obraran no para fortificar a los que ya son en si fuertes, sino que, bajo la inspiracion de su anunciada justicia social, tenderan su mano a aquellos que necesitan de una accion generosa y salvadora. Esto es lo menos que se puede esperar de aquellos que se vanaglorian de ser representantes del pueblo, y espero confiadamente que el sentido de prudencia de los Delegados omitira el parrafo II del titulo de este proyecto.

La labor de formular una Constitucion es ciertamente dificil, porque dificil es ganar todo el cariño y respeto de toda una comunidad o un pueblo donde se encuentran intereses diversos y a veces opuestos. El profesor Forkin, de Yale, nos da una ruta que seguir en nuestra labor. Dice el profesor:

"Y por esta sabia estructuracion de la Constitucion de los Estados Unidos pudo conseguir el Presidente Roosevelt desarrollar su "New Deal" y levantar los entusiasmos populares y ofrecer nueva esperanza a la humanidad que sufre y llora."

Se ha dicho que se quiere desenvolver un gobierno nacional fuerte: que este es un gobierno unitario; todo hay que dejar a la Asamblea Nacional. Parece ser que esto de "todo hay que dejar a la Asamblea Nacional" representa el fin del proyecto de Constitucion que tenemos delante. Dejar que la Asamblea Nacional lo provea todo para las provincias y municipios para que puedan vivir y desarrollarse. Esto me recuerda la actitud de esas madres de un celo grande para sus hijos que los tienen siempre en brazos, dando por resultado que a los cinco años de edad estos hijos apenas saben gatear en el suelo. Yo me pregunto si la idea y el concepto de un gobierno nacional fuerte no se puede desenvolver dentro de una politica de autonomia provincial y municipal. ¿Que es la nacion sino el conjunto de esas unidades pequeñas? Si la operacion es exacta, a la fuerza tiene que reflejar el valor de todos los sumandos. Una nacion fuerte, un gobierno fuerte central, a la fuerza envuelve la idea de unidad provincial y municipal tambien fuerte, bien desarrollada.

Quiero rendirme a la elocuencia del Delegado por Capiz, Señor Roxas, por la defensa que ha hecho del precepto de que ninguna persona sera reducida a prision por deudas o falta de pago de contribuciones. Ha sido muy elocuente y apasionado, y con su verbo de gran tribuno, el distinguido Caballero de Capiz ha apelado a favor del hombre de la calle, quien, en virtud de esta disposicion constitucional, ya desconocera la prision, la carcel, por no poder pagar los dos pesos de la cedula personal. Es verdad que se le librara de la prision al indigente moroso; pero el bochorno de los requerimientos frecuentes de pago de la cedula, la amenaza de accion civil, con el inconveniente de tener que ir y venir del Juzgado, y lo que han de constar las comparecencias, el nuevo via crucis que tendra que recorrer el menesteroso para demostrar su capacidad de pagar la cedula personal. El medir por un mismo rasero a pobres y ricos en el impuesto de la cedula personal es inmoral e injusto, y su abolicion debe ser respaldada por la Constitucion para que tenga prestancia de principio y mayores garantias de permanencia. Con prohibir la prision como castigo por la falta de pago de cedula, solo se corrige una de las incidencias de la medida,

pero no le expurga de su fondo inmoral al exigir igual tribute al señor y al siervo.

El Artículo 7 del Título XIII, hace ciertas concesiones al obrero; estas concesiones, juzgandolas tal como estan redactadas, son concesiones temerosas, porque no reafirman principios que la practica de hoy en las naciones ha consagrado como necesarios para el bienestar de las masas del pueblo. No establece el derecho que tiene todo obrero al trabajo. El derecho ineludible del hombre a la vida, la libertad . . .

MR. MONCADO: Mr. President, for a point of order.

THE PRESIDENT: What is the point of order?

MR. MONCADO: According to the Rules, we have from nine to twelve for our morning session; therefore, we should adjourn now.

SR. CONEJERO: Señor Presidente, pido que se le conceda al orador todo el tiempo que necesite para acabar su discurso.

MR. CANONoy: I move that the Gentleman be allowed to continue his speech tomorrow morning.

VARIOS DELEGADOS: Pedimos que se levante la sesion.

SUSPENSION DE LA SESION

EL PRESIDENTE: Se suspende la sesion hasta esta tarde a las 4:00, reservandole al orador el derecho de continuar en el uso de la palabra en la sesion de mañana.

Eran las 12:00 p.m.

REANUDACION DE LA SESION

EL PRESIDENTE: Se reanuda la sesion.

MR. MARAMARA: During the discussion of the draft of the Constitution, I noticed that several amendments were presented without the knowledge of the Chairman of the Sponsorship Committee, especially those offhand amendments. Incidentally, the Chairman is deprived of the wise counsel of the members of his committee, because they are sitting far apart. I, therefore, move, Mr. President, that an appropriate place in front of this convention hall be assigned to the sub-committee and they be requested to take their seats there.

EL PRESIDENTE: La mocion es que se ponga una mesa frente al estrado para que los miembros del Subcomite de Siete puedan consultarse mutuamente. ¿Que dicen los miembros del Subcomite a esta enmienda del Delegado Maramara?

SR. VENTURA: No esta secundada la mocion.

SR. SOTTO: Dicen que estan ya bien aqui.

EL PRESIDEXTE: En vista de esa manifestacion de que ya estan bien alii y que ya pueden consultarse mutuamente cada vez que se presenten las enmiendas, la Mesa cree que el Delegado por Cebu no tendria in. conveniente en retirar su mocion.

SR. MARAMARA: Retiro ya mi mocion.

EL PRESIDENTE: Lease la enmienda del Delegado Enriquez.

EL SECRETARIO: En la pagina 2-A, linea 2, insertese entre las cifras "1930" y la coma (,) lo siguiente: "excepto la Isla llamada Palmas o Miangas."

SR. ISIP: Señor Presidente, para un turno en contra.

SR. ENRIQUEZ: Señor Presidente, quisiera hablar a favor de la enmienda.

EL PRESIDENTE: Tiene la palabra el Delegado Enriquez.

DISCURSO DEL SR. ENRIQUEZ

SR. ENRIQUEZ: Señor Presidente, Caballeros de la Asamblea: Todavía repercuten en mis oídos los temores de que un Delegado hizo mencion aquí dos días antes, en el sentido de que tiene que armarse de valor, de vigor grande para proponer una enmienda. Así y todo, compañeros, me he visto obligado a presentar esta enmienda, porque se trata de un hecho cuyas consecuencias pueden ser desastrosas y fatales para la causa del país y para el pueblo filipino en general.

Señor Presidente y Caballeros de la Asamblea: En la enmienda se propone que se excluyan del territorio nacional la Isla que se llama "Palmas" o "Miangas." Esta isla tiene, para informacion de todos los compañeros, dos millas de longitud y tres cuartas millas de anchura y dista cincuenta millas del cabo de San Agustín, de Mindanao. Esta isla forma parte del territorio filipino y, al ser Filipinas descubierta por España, la Isla de Palmas formaba parte integrante del grupo del archipiélago que se llama Filipinas; pero un día, el entonces comandante general del puesto militar de Filipinas, el General Wood, se le ocurrió ir a esa isla desde Mindanao, en 1906, y grande fue su sorpresa al ver en dicha isla izada la bandera de Holanda. Entonces, el General Wood se encaro con los nativos y les pregunto por que estaba aquella bandera, y los nativos contestaron que la isla estaba bajo la soberanía y la autoridad estatal de Holanda. Entonces el General Wood elevo el asunto a America y fue cuando en 1925, el Presidente Coolidge firmo un convenio con Holanda, en el sentido de someter a un arbitraje la cuestion de la soberanía de la Isla de Palmas, convenio que se firmo en Washington y en virtud del mismo, los dos países, America y Holanda, nombraron a Max Houbert único arbitro para decidir las diferencias entre los dos países sobre la Isla de Palmas acordando que cualquiera que fuera la decision del arbitro, la misma seria final e inapelable. En virtud de aquel convenio las partes sometieron sus respectivos memorandum, estando representado el pueblo de los Estados Unidos por el entonces Secretario Hughes, y la Reina de Holanda por su Secretario, Sir Grey, que era el Ministro Plenipotenciario en Washington. Presentados los memorandum y articuladas las pruebas de una y otra parte, el año 1928 Max Houbert, el arbitro, decidio el asunto en favor de Holanda, declarando, por tanto, que la Isla de Palmas era una colonia o posesion holandesa y no de los Estados Unidos. Para informacion de los compañeros, voy a decir que los fundamentos de la alegacion de America, de que la Isla de Palmas formaba parte de Filipinas y por tanto podian ejercer su soberanía sobre la misma, eran que dicho isla formaba parte del Archipiélago Filipino, y que fue descubierta por España juntamente con las otras islas que forman al Archipiélago Filipino. Holanda, sin embargo, alego y probó que, no obstante pertenecer dicha isla al Archipiélago Filipino, España, en ningún tiempo ejercio ningún acto de soberanía ni ningún derecho de autoridad sobre dicha isla. Probo tambien que desde 1677 Holanda habia estado ocupando la Isla y habia estado negociando con los naturales de la misma. En fin, despues de practicadas todas estas pruebas, como he dicho, Max Houbert decidio que la isla no era nuestra. Esto que yo digo se ha publicado en el American Journal of International Law del mes de octubre de 1918, y la decision no solamente se ha publicado en dicha revista sino que tambien la ha publicado el buro de asuntos internacionales.

Señores, si estos son los hechos, si los hechos citados por mí sucintamente, escuetamente, son reales y esa decision de Max Houbert es final e inapelable; si esa decision no se puede ya cambiar, y en virtud de la misma la Isla de Palmas, no obstante formar parte del grupo llamado Archipiélago Filipino, y no obstante estar dentro del Tratado de París, no nos pertenece sino a Holanda, nada mas logico que esa isla se excluya del territorio nacional de que tratamos hoy.

SR. YSIP: Señor Presidente, para una pregunta al orador.

EL PRESIDENTE: El orador puede contestar, si le place.

SR. ENRIQUEZ: Si, Señor.

SR. YSIP: A que nacionalidad pertenecia Max Houbert?

SR. ENRIQUEZ: Era suizo.

(Prosiguendo.) Señor Presidente, si es verdad que las Islas Palmas no pertenecen a Filipinas, si no las excluimos de nuestro territorio nacional, me temo que cuando esta Constitucion llegue a los Estados Unidos, Holanda, que tiene su Consul en Filipinas, o si no por su consul, por algun holandés o por alguna asociacion de hombres que se llaman scholars que se dedican al estudio de las leyes internacionales, constitucionales y politicas, podria llegar a saber que en nuestra Constitucion hemos incluido una isla que pertenece a dicha nacion y pueda esto ser motivo de protesta ante los Estados Unidos. Que sucedera entonces? Ya sabemos lo que puede suceder.

SR. ENCARNACION: Señor Presidente, para algunas preguntas al orador.

EL PRESIDENTE: El orador puede contestar, si le place.

SR. ENRIQUEZ: Si, Señor.

SR. ENCARNACION: De conformidad con el capitulo referente al territorio nacional, cree Su Señoría que se puede afirmar categoricamente que esa isla no esta dentro de la descripcion?

SR. ENRIQUEZ: Si, Señor; y no solamente lo digo, sino que lo dice el mismo memorandum presentado por el Secretario Hughes, en representacion del Gobierno de los Estados Unidos, en donde se dice que dicha isla no solamente forma parte del grupo de islas llamado Archipiélago Filipino, sino que esta ademas dentro de la descripcion del Tratado de Paris.

SR. ENCARNACION: Yo me refiero al proyecto de Constitucion. Leyendo palabra por palabra este articulo, ¿no encuentra Su Señoría mencionada esa Isla? Yo creo que no mencionandose esa isla para nada en esta Constitucion, no podremos afirmar que la misma esta dentro de nuestro territorio nacional.

SR. ENRIQUEZ: Hay necesidad de hacer una declaracion expresa sobre la exclusion de esa Isla, porque, segun el Articulo 1 del proyecto de Constitucion, el territorio filipino comprende todas las islas y todas las tierras comprendidas dentro del tratado de Paris y los tres tratados sucesivos, lo mismo que el concertado entre Estados Unidos y Gran Bretaña en 1900. De modo que estos son los datos que constaran en nuestra Constitucion. Ahora digo: Si el Tratado de Paris, que aparece citado en la Constitucion, dice que todas las islas comprendidas en dicho Tratado constituyen el territorio filipino; y si dicha Isla de Palmas es parte de las islas comprendidas en el Tratado de Paris, creo que si no hacemos una declaracion expresa excluyendo dicha isla, se entendera que la misma esta incluida, y en ese caso Holanda tendra derecho de formular su protesta contra esa disposicion de nuestra Constitucion.

SR. ENCARNACION: No cree Su Señoría que seria mas conveniente para nuestros intereses no mencionar para nada esa isla en la Constitucion?

SR. ENRIQUEZ: Opino lo contrario, porque tal como esta el Articulo 1 se entiende que esa isla esta incluida. Lo que propongo es que se excluya esa isla. Eso es todo.

SR. ENCARNACION: Veo que trata de cambiar el Tratado de Paris.

SR. ENRIQUEZ: No tratamos de cambiar el Tratado de Paris; pero el caso es que cuando America invoco el

Tratado de Paris cuando se litigaba sobre esa isla y ella alegaba que le pertenecia, Max Houbert dijo: "Ya que hablamos de eso, no basta que un pais descubra otro. El descubrimiento de un pais por otro no confiere un titulo perfecto a ese pais que ha descubierto." Su descubrimiento no confiere mas que los derechos que se llaman....

SR. ENCARNACION: ¿Que autoridad tenia ese señor mencionado por usted para intervenir en esa cuestion? ¿Quien le habia dado autoridad?

SR. ENRIQUEZ: Parece que Su Señoria no ha oido lo que dije antes.

SR. ENCARNACION: Precisamente he oido lo que Su Señoria ha dicho y por eso quisiera tener informacion sobre el particular.

SR. ENRIQUEZ: Max Houbert fue el arbitro escogido para resolver aquellas diferencias sometidas a el por los Estados Unidos y Holanda, con la condicion expresa y escrita de que la decision que rindiera seria final e inapelable.

SR. ENCARNACION: ¿Y sabe Su Señoria si esa decision obra en nuestros archivos?

SR. ENRIQUEZ: Precisamente ayer tuve la suerte de verla y ayer mismo presente esta enmienda. Yo estaba leyendo esa revista en la biblioteca de la Universidad de Filipinas. Como dije, es la edicion correspondiente al mes de octubre de 1928 de la American Journal of International Law.

Yo estaba diciendo, Caballeros de la Asamblea, que si no excluimos esta isla de la descripcion del territorio nacional, posiblemente, sin querer demoraremos el pronto advenimiento de la independencia, y no solamente esto, sino que ademas podriamos causar al pueblo, este pueblo ya cargado y recargado de impuestos, de empleados y otros gravámenes, nuevos gastos, porque, cuando vuelva esta Constitucion con el informe del Presidente de los Estados Unidos para su enmienda, se tendra que convocar a una nueva sesion de la Asamblea, e indudablemente el Gobierno tendra que hacer nuevos gastos. Ademas, compañeros, si no excluimos esa isla, probado como esta que no pertenece al pueblo filipino o al Gobierno de Estados Unidos, causariamos a las generaciones presente y futuras y al mundo entero una impresion muy poco agradable, una impresion pobre de nosotros mismos, porque tendran razon para decir que hemos sido demasiado negligentes, muy poco cuidadosos, porque no hemos querido estudiar este asunto antes de formular y aprobar la Constitucion? Y no quisiera que las generaciones presente y futuras de filipinos nos endilguen los calificativos antes dichos: y todavia me temo, compañeros, que nos endilguen un calificativo todavia mas fuerte y mas molesto, porque inclusive podrian decir y tambien con razon, que hemos sido unos ignorantes. Por el contrario, si excluimos la isla de Palmas del territorio descrito en nuestra Constitucion no solamente evitaremos demora en la aprobacion final de la Constitucion que estamos formulando; evitaremos ademas que el pueblo haga nuevos gastos, y nos comportaremos como debemos. Seremos justos para con nosotros mismos, para los filipinos de mañana y para todo el pueblo.

Señores: Tenemos que ser veraces, sinceros y honrados, no solamente ante la generacion de hoy, sino tambien ante las generaciones futuras y ante la historia. Como digo, la eleccion no es dudosa. El asunto es demasiado claro. Si queremos salvar al pais, lo mejor que podemos hacer es excluir de la Constitucion esta parte.

Para terminar, yo desearia rogar a los compañeros que para el bien del pais y para la pronta aprobacion de esta Constitucion y el pronto advenimiento de la independencia tan codiciada, excluyamos esta isla ya que no podemos conseguirla aunque la insertaramos en nuestra Constitucion. Nunca podremos obtenerla a menos que haya un nuevo tratado entre Estados Unidos y Holanda.

SR. ENCARNACION: Yo quisiera saber del orador cuando fue decidido por Max Houbert esa controversia.

SR. ENRIQUEZ: Como dije, se ha publicado eso en el American Journal of International Law, 1928, y para la

mejor informacion de la Asamblea, estoy dispuesto a traer dicha revista.

SR. ENCARNACION: Confiamos en las citas de usted. Esa decision de Max Houbert ha sido aceptada por Estados Unidos antes de la aprobacion de la ley Hare-Hawes Cutting y de la Ley Tydings-McDuffie ?

SR. ENRIQUEZ: Eso es verdad, creo yo.

SR. PERFECTO: Señor Presidente: yo querria rogar al Comité que nos de algunos comentarios acerca de eso.

EL PRESIDENTE: Ahora, uno de los miembros del Comité hara uso de la palabra. Tiene la palabra el Delegado, Señor Ysip.

DISCURSO DEL SR. YSIP

SR. YSIP: Señor Presidente y distinguidos Miembros de esta Asamblea: Yo no tenia el proposito de abusar de vuestra atencion ni tampoco tenia el proposito de hablar esta noche sobre esta ya tan bien discutida cuestion sobre el territorio nacional. Sin embargo, al tener conocimiento de la enmienda del Caballero de Tayabas, hice un esfuerzo para buscar algunos datos historicos que os voy a exponer sobre esta cuestion.

Tengo muchas dudas, Caballeros de esta Asamblea, sobre la descripcion tecnica segun se hace constar en el Tratado firmado en Paris entre Estados Unidos y España, en lo que se refiere a esta Isla de Palmas, dudas sobre si o no esta incluida. Mi temor es que, excluyendo esta Isla en la descripcion tecnica de acuerdo con el Tratado de Paris y el otro tratado firmado en Washington entre Estados Unidos e Inglaterra, excluyendo estas islas . . .

SR. RAFOLS: El Caballero de Nueva Ecija habla de una isla llamada "Palmas" y tambien habla de las Islas Palmas. ¿Cual es la verdad? Son varias esas islas o una sola? Y si son varias, ¿cuantas son?

SR. YSIP: Para informacion del Caballero de Cebu, dire que no hay mas que una isla llamada Palmas.

(Continuando.) Señor Presidente: si excluimos de nuestro territorio nacional la isla Palmas, esta cuestion seria final y fatal para nosotros. Algun dia pudieramos encontrar documentos fehacientes, pruebas concluyentes de que esta isla Palmas pertenece al territorio filipino; entonces, estariamos estopelados. Y para informacion de la Convencion, voy a producir un documento historico que he encontrado en la biblioteca de mi difunto padre, un libro viejo y carcomido por los insectos, cuya parte pertinente os voy a leer. Se titula "Conquista de las Islas Filipinas" por el P. Casimiro Diaz, editado en 1881. Segunda parte. Tornado del archivo que yace en las bibliotecas de 1780. La parte donde describe el pueblo filipino dice lo siguiente:

"Estan situadas las Islas Filipinas en el ultimo termino de la Asia Mayor en altura desde 5 grados y medio en la gran Isla de Mindanao, hasta diez y nueve grados de latitud del Polo Artico, en el tropico de Cancer y en los paralelos de longitud de 132 grados hasta el del meridiano de Tenerife; las dos principales Islas son Manila y Mindanao, cuya magnitud es igual a las restantes.

Las otras son Samar, Ibabao, Cebu. Isla de Negros, Panay, Mindoro y Paragua. Las de menor magnitud, Burias, Masbate, Catanduanes, Bohol Marinduque, Calamianes y en Mindanao, Basilan, a las cuales se llegan otras muchas en numero, que causa admiracion su multitud, como son Luban, Isla de Capones, Cuyo, Banton, Romblon, Isla de Tablas, Guimaras. Mactan, Celebre por la muerte que en ella dieron al heroico lusitano Fernando de Magallanes. Y tantas que, se cuentan once mil en todo este Archipiélago desde Japon hasta la Nueva Guinea.

He creido conveniente, Caballeros de esta Asamblea, traer a colacion esta cita de un libro historico, para aprovar precisamente mi temor de que excluyendo la isla Palma de nuestro territorio, como se pretende por el Caballero de Tayabas, si algun dia llegaramos a encontrar en los archivos, en las bibliotecas, en el archivo de Indias, por ejemplo, documentos que nos prueben concluyente que esta isla de Palmas pertenece al Archipiélago Filipino,

excluyendola ahora de la delimitacion de nuestro territorio estaremos estopelados y no podremos reclamar ya nunca. Ademas, quiero tambien tocar un punto importante. Si excluimos esta Isla de Palmas no cumpliremos con nuestro deber. La misma Ley Tydings-McDuffie, cuya aprobacion tuvo lugar mucho despues de que se decidio la pertenencia de la Isla de Palmas a favor del Gobierno de Holanda, viene a significar que el mismo Congreso americano lo sabia desde antes de aprobar dicha Ley Tydings-McDuffie, y, sin embargo, no la excluyo del Tratado mencionado en dicha ley, y en la misma Ley Jones se ha dejado intacto tal como fue aprobado el Tratado de Paris, firmado entre Estados Unidos y España el 10 de diciembre de 1898, lo mismo en el tratado firmado en Washington el 7 de noviembre de 1930, asi como en el tratado celebrado entre Inglaterra y Estados Unidos y firmado en 1934, mas particularmente la Ley Tydings-McDuffie, aprobada recientemente por el Congreso de los Estados Unidos, no la ha excluido de la descripcion del territorio que comprende el Archipelago Filipino, sabiendo, como sabia la conclusion a que se llego entre el Gobierno de Holanda y el Gobierno de los Estados Unidos.

Para terminar, desearia llamar la atencion de esta Asamblea sobre estos hechos y datos historicos para que no nos pretipitemos en excluir de nuestro territorio una isla que en la actualidad no poseemos, porque podria suceder que en algun tiempo futuro encontraramos, como ya he dicho, documentos concluyentes que prueben que esa isla pertenece al Archipelago Filipino. Creo que si encontraramos esas pruebas, las puertas estaran todavia abiertas para que se pueda discutir la pertenencia de esta isla de Palmas.

SR. ABAYA: Me permitira, Señor Presidente, el orador una pregunta?

EL PRESIDENTE: Puede contestar el orador, si lo desea.

SR. YSIP: Si, Señor.

SR. ABAYA: En la actualidad. ¿a que nacionalidad pertenecen los habitantes de esa isla, o la mayoría de ellos?

SR. YSIP: Es dificil contestar a esa pregunta. Sin embargo, puedo decir que la isla de Palmas esta bajo la soberania holandesa.

SR. NEPOMUCENO (R.): Señor, Presidente, desearia dirigir algunas preguntas al orador.

EL PRESIDENTE: ¿Accede a ellas el orador?

SR. YSIP: Si, Señor.

SR. NEPOMUCENO (R.): Tal como entiendo la cuestion, la misma consiste en esto: que hay una isla llamada Palmas que, segun Su Señoria pertenece a Filipinas; pero que segun las explicaciones del Caballero de Tayabas, se ha decidido por el Señor Houber, a instancias del Presidente de los Estados Unidos, el difunto Presidente Coolidge, que esa isla no pertenece a Filipinas, sino a Holanda. ¿Cual es la verdad? ¿Pertenece esa Isla Palmas a Filipinas o no?

SR. YSIP: Lo que de dicho, sino no me he expresado mal, es que, segun estos datos historicos que he encontrado, la isla de Palmas pertenece al Archipelago filipino; y es mas: he consultado a la Oficina de Geodesia, yendo alli personalmente para sacar un grafico, segun el mapa que tienen alli, sobre la descripcion mencionada en este libro, y quiero informar que, segun esta descripcion, el Archipelago filipino incluye hasta la isla de Yap. Por eso digo que es un poco peligroso excluir de nuestro territorio la isla de Palmas, porque podriamos encontrar documentos mas concluyentes, y en ese caso se podria reabrir la cuestion, se podria discutir de nuevo la cuestion.

SR. NEPOMUCENO (R.): Pero ¿cree Su Señoria que cualquier documento historico que pudieramos encontrar en lo futuro valdra mas que esa decision que ha sido aceptada por Estados Unidos como final?

SR. YSIP: Podremos discutir con el Gobierno de Holanda presentando los documentos y las pruebas que tengamos para que se nos devuelva esa Isla de Palmas.

SR. NEPOMUCENO (R.): Y mientras tanto, segun la decision que no puede ser objeto de apelacion, esa Isla pertenece a Holanda, y entonces ¿que derecho tenemos para poner en la Constitucion que esa Isla pertenece al Archipielago Filipino?

SR. YSIP: Para contestar a esa pregunta voy a citar la clara disposicion de la Ley Tydings-McDuffie advirtiendole que, al aprobarse esta Ley, Estados Unidos ya sabia que estaba excluida esa isla, porque no se ha hecho ninguna excepcion sobre la misma.

SR. NEPOMUCENO (R.): Si es verdad que Estados Unidos sabia ya, al aprobarse la Ley Tydings-McDuffie, que esa isla no pertenece a Filipinas, entonces con mayor razon no debemos hacer una descripcion del territorio filipino que incluye la isla de Palmas.

SR. YSIP: Lo he dicho, sino no me he expre-Estados Unidos, sabiendo como sabia en la fecha de la aprobacion de la Ley Tydings-McDuffie que la Isla de Palmas no pertenece al Archipielago filipino, sin embargo, al redactar la ley y al hacer referencia a los tratados, no hizo ninguna excepcion de la Isla de Palmas, y nosotros no hemos hecho mas que describir como se ha hecho en la Ley Tydings-McDuffie.

SR. NEPOMUCENO: En vista de las cuestiones que se han suscitado, ¿no cree Su Señoría que, en realidad, esa parte de la Constitucion debiera suprimirse?

SR. YSIP: No lo creo asi. Esa es una cuestion que creo ha sido ya discutida y fallada por la Asamblea.

MR. SANTOS: Mr. President, will the Gentleman yield?

THE PRESIDENT: The Gentleman may yield if he so desires.

MR. YSIP: Willingly.

MR. SANTOS: Is the Gentleman from Nueva Ecija aware of the fact that the Island of Palmas is included in the Treaty of Paris?

MR. YSIP: Yes, sir.

MR. SANTOS: Is it not a fact that all the territories included in the Treaty of Paris are also included in the Tydings-McDuffie Law?

MR. YSIP: Yes, sir.

MR. SANTOS: If that is so, does not the Gentleman think that the President of the United States is obliged not to put any obstacle?

MR. YSIP: I think so.

SR. SANTOS: Muchas gracias.

SR. MONTAÑO: Para algunas preguntas al orador, Señor Presidente.

EL PRESIDENTE: ¿Esta dispuesto a contestar el orador?

SR. YSIP: Con mucho gusto, Señor Presidente.

SR. MONTANO: ¿No es verdad que un tratado es un contrato entre dos naciones?

SR. YSIP: Si, Señor.

SR. MONTANO: Y tambien es verdad, como Su Señoría ha dicho, que ha habido un convenio entre Holanda y America para someter el asunto a la decision de un arbitro, la cual seria definitiva y absoluta?

SR. YSIP: Refiriendome al tratado como contrato, creo que un contrato ya sea individual o entre Estados, las dos partes contratantes, no obstante haber llegado a un acuerdo, pueden en fecha posterior, llegar a otro acuerdo que reforme el contrato anterior, si la voluntad de las partes contratantes así convienen.

SR. MONTANO: Y ¿no es verdad que si no se avienen, solamente la guerra podria decidir?

SR. YSIP: Yo no comprendo a que punto va Su Señoría al dirigirme esa pregunta.

SR. MONTANO: ¿Puede Su Señoría afirmar ahora que el hecho de que no se haya mencionado esa Isla en la Ley Tydings-McDuffie indica que los Estados Unidos quiere infringir su Tratado con Holanda segun el cual ya ha sido decidido que la Isla de Palmas pertenece a Holanda?

SR. YSIP: Yo no puedo decir cual era la intencion de los Estados Unidos al disponer en la Ley Tydings-McDuffie lo que respecta a la Isla de Palmas. Lo unico que puedo decir es que el Gobierno de los Estados Unidos no ha hecho ninguna excepcion sobre la Isla de Palmas.

SR. MONTANO: En eso case, quiere Su Señoría hacernos creer que con ese hecho Estados Unidos nos va a dejar para meternos en un conflicto con Holanda?

SR. YSIP: No quiero hacer creer nada a los Caballeros. He traído a colacion este caso, por algun dia pudiesemos encontrar pruebas con las cuales nos sea posible reabrir este asunto.

SR. MONTANO: No cree Su Señoría que si no incluimos esta Isla en esta Constitucion, al ser sometida la misma al Presidente de los Estados Unidos, este se encargara de buscar la razon por que se ha omitido la Isla de Palmas y así, se dara cuenta de que se debio a un error la omision de la isla de Palmas en la Ley Tydings-McDuffie? En cambio, no habiendo nosotros hecho mas de lo que aparece en la Ley Tydings-McDuffie, el Gobierno de los Estados Unidos no podria decir nada.

EL PRESIDENTE: El tiempo del orador ha expirado ya. Ahora que dice el Comite?

SR. SOTTO (F.): Va a contestar por el Comite de Ponencias el Delegado por Bataan, Señor Cuaderno.

EL PRESIDENTE: Tiene la palabra el Delegado por Bataan.

MANIFESTACION DEL SR. CUADERNO SOBRE LA ISLA DE PALMAS

MR. CUADERNO: Mr. President and Gentlemen of the Convention: In compliance with the request of the members of the Sub-Committee of Seven and that of some of my friends, I shall give you some information about Pamas Island. General Wood and I were therein 1934. I am going to tell you of the conversation between the authorities of the United States and a representative of the Government of Holland and of the conversation of General Wood with the members of the party on board the Apo.

The island is about three miles in length and two miles in width, with nothing on it but coconuts. There is not a single Hollander in the place, and its population consists of approximately one thousand Malay people, ruled by one of them who once lived in Zamboanga for about ten years and is supposed to be the most "listo" —the whole cheese of the island.

I think you all will agree with me that Palmas Island is within the territorial limits described in the Treaty of Paris.

As has been said here this afternoon, however, the sovereignty over this island has been conceded by the United States to Holland. The only vestige of authority of the sovereignty over this island, however, consists of only one flag which is raised by the people there whenever they see a boat approach the island—a coat of arms taken from a sunken boat many years ago. They will tell you that a boat from Holland, or rather from the Dutch or East Indies, visits the island once a year only to gather coconuts. But the late General Wood said that that island is very valuable to the Philippines, lying as it does where it can be reached in two hours from Mindanao, and that it will form one of the most formidable bases, a naval base, to the south of the Archipelago.

Remember, my friends, that this island lies within the territorial limits mentioned in the Treaty of Paris, and the time might come, as stated by General Wood, that the Dutch would give it to us. They have no interest in the island, apparently. And, my friends, once we state in our Constitution that we have no claim or will have no claim to that island, it might be a little hard to approach Holland and ask them to give it to us. You all know that territory may be acquired by seizure or by occupation. There is no telling that in the years to come, we might, by mutual consent, be able to have that island which, according to General Wood, the authority on things Mindanao, is very valuable to us in the future, so far as the defense of this country is concerned.

MR. CONFESOR: Mr. President, will the Gentleman yield?

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

MR. CUADERNO: Gladly.

MR. CONFESOR: I understand that many children from that island to go to Davao for their schooling. Is that true?

MR. CUADERNO: That is true.

MR. ORTIZ (M.): Mr. President, will the Gentleman yield?

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

MR. CUADERNO: Willingly.

MR. ORTIZ (M.): Does not the Gentleman from Bataan think that the inclusion of this island will cause international trouble in the future?

MR. CUADERNO: We are not even mentioning it; we are just following what the Tydings-McDuffie Law provides.

MR. ORTIZ (M.): We cannot deny that the island is included in the Treaty of Paris mentioned in the Constitution, and we cannot deny that at present it is the Dutch that rule over the island.

MR. CUADERNO: But suppose one year from now Holland will give it to us, are we going to amend the Constitution to include Palmas Island? The first thing I would do, if I were authorized to do so, is to negotiate for the repossession of that island.

MR. ORTIZ (M.): Does not the Gentleman think that it would be better to reconsider our decision last night and ask for the suppression of the article on the territory?

MR. CUADERNO: That is not the question.

MR. ORTIZ (M.): That seems to me the most logical and the safest way to prepare our Constitution; not to include that territory inasmuch as it is not very necessary and in order to avoid complication in the future.

MR. CUADERNO: I am very sorry I am not in a position to answer that question. I respect the decision of the Assembly.

SR. LOCSIN: Señor Presidente, para algunas preguntas al orador.

EL PRESIDENTE: El orador puede contestar, si le place.

SR. CUADERNO: Si, Señor.

SR. LOCSIN: No cree el Caballero de Bataan, que es preferible no excluir a la Isla de Palmas, porque nadie puede predecir el porvenir que tendra la raza malaya, la posicion social y politica que en lo futuro ha de tener esta raza, una vez conseguida su hegemonia su engrandecimiento. su despertar, por lo cual bueno sera no excluir esta isla para facilitar su inclusion en el Archipelago filipino, cuyos habitantes son tan malayos como los de la isla de Palmas y la de Java?

SR. CUADERNO: A eso iba. Creo que no debemos excluir esta isla.

SR. LOCSIN: Si esto es una posibilidad, no cree el Caballero de Bataan que es impropio llamar selvaticos a los habitantes de la isla de Palmas, porque asi sembramos desde ahora un sentimiento de poca simpatia a nuestro favor? Debemos facilitar su inclusion y despertar su interes de incorporarse al Archipelago filipino, ya que son tan hombres y ciudadanos como los filipinos que habitan estas islas, y no llamarles un grupo de selvaticos dirigidos por el mas pillo.

SR. CUADERNO: Yo no he empleado la palabra "pillo", sino "listo", "the brightest."

MR. CABARROGUIS: Will the Gentleman yield to one question, Mr. President.

THE PRESIDENT: The Gentleman may yield if he so desires.

MR. CUADERNO: Gladly.

MR. CABARROGUIS: Does the Gentleman from Bataan know that the provincial authorities of Davao visit that island often?

MR. CUADERNO: Yes, that is true.

MR. PELAYO: Mr. President, will the Gentleman yield?

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

MR. CUADERNO: Willingly.

MR. PELAYO: Does not the Gentleman from Bataan believe that the natives of Palmas Island are willing to be under the jurisdiction of the Philippine Government?

MR. CUADERNO: I am glad that question has been raised, because that will help my point. We have been talking with some of the people there, and I know that they are willing to be with us.

MR. PELAYO: Does the Gentleman know if there exists a commercial intercourse between the natives of Palmas Island and the people of the Province of Davao?

MR. CUADERNO: Yes.

MR. PELAYO: And does the Gentleman know if there are natives of Palmas Island now living in Davao?

MR. CUADERNO: As far as I have been informed lately, there are more people going to Davao now than ever

before.

MR. PELAYO: Does not the Gentleman believe that, because of this reason, the Philippine Government must taken an interest in Palmas Island?

MR. CUADERNO: Quite so.

EL PRESIDENTE: ¿Esta dispuesta la Asamblea a votar la enmienda? (Varios Delegados: Si.) Los que esten conformes con la enmienda, tengan la bondad de decir Si.) (Una minoria: Si) Los que esten en contra, sirvanse decir No.) (Una mayoria: No.) Rechazada.

Lease otra enmienda.

EL SECRETARIO:

ENMIENDA CASTILLEJOS

En la pagina 1, linea 11, suprimase todo lo que viene despues de la palabra "comprende" hasta la conjuncion "y" de la linea 2, pagina 2-A.

EL PRESIDENTE: ¿Que dice el Comite?

SR. SOTTO (F.): El Comite no acepta la enmienda.

EL PRESIDENTE: Tiene la palabra el Delegado por Batanes.

SR. CASTILLEJOS: Señor Presidente, muy poco tengo que decir sobre este enmienda. El objeto de mi enmienda es casi el mismo que la enmienda del Señor Enriquez, y es evitar cualquier conflicto que pueda haber en lo sucesivo. Tenemos, por ejemplo, la Isla Yama, que esta al Norte de Filipinas, dentro del Canal de Bachi, que esta en poder de los japoneses, y por este motivo he presentado esta enmienda.

EL PRESIDENTE: ¿Puede votarse la enmienda? (Varios Delegados: Si.) Los que esten conformes con la enmienda, digan Si.) (Una minoria: Si.) Los que esten en contra, digan No. (Una mayoria: No.) Rechazada.

Lease la enmienda del Delegado Bautista.

EL SECRETARIO:

En la pagina 2, entre las lineas 5 y 6 intercalese lo siguiente:

"Section 2. The territory of the Philippine Islands forms an indivisible unit, and its frontiers may be altered only by enactment of a constitutional convention called for the purpose."

SR. SOTTO (F.): Parece ser que ya no hay enmiendas en cuanto al articulo primero, y siendo esta enmieiida independiente el Comite propone que se vote antes el articulo primero.

EL PRESIDENTE: Esta enmienda forma parte del titulo, sobre territorio nacional. Vamos a disponer primeramente de esta enmienda. Que dice el Comite?

SR. SOTTO (F): El Comite no acepta la enmienda.

SR. BAUTISTA: Señor Presidente, voy a razonar mi enmienda.

EL PRESIDENTE: Tiene la palabra el Delegado por Pampanga.

EL SR. BAUTISTA RAZONA SU ENMIENDA

SR. BAUTISTA: Señor Presidente y Caballeros de la Convencion: La enmienda propuesta debe leerse así:

"Section 2. The territory of the Philippines forms an indivisible unit, and its frontiers may be altered only by enactment of a constitutional convention called for that purpose."

El inciso 9 del artículo 12 del Título IX del proyecto de Constitución dispone que:

"El Presidente estará facultado, con la concurrencia de una mayoría de la Asamblea Nacional, para celebrar tratados."

No se especifica que tratados puede celebrar el Presidente de la República con la concurrencia de una mayoría de la Asamblea Nacional; por este motivo se entiende incluido en dicha facultad el poder de ceder a una nación extraña una parte del territorio nacional.

Examinando el título VII sobre el Departamento Legislativo, no se encuentra ninguna disposición que prohíba a la Asamblea Nacional traspasar a otro país alguna porción del Archipiélago filipino, o declarar a Filipinas dividida en dos naciones separadas o independientes. Y no existiendo tal prohibición, la puerta está abierta para la enajenación, por ejemplo, de la provincia de Davao a una nación extranjera; o para la declaración de la Isla de Mindanao como un Estado separado o independiente del resto de Filipinas.

La enmienda que propongo tiene por fin evitar que, por un tratado que el Presidente de la República celebre, o por una acción de la Asamblea Nacional, se desintegre el pueblo filipino. El objeto es cortar el paso de extrañas potencias, que, movidas por la avaricia, quisieran algún día valerse de nuestros propios compatriotas para adueñarse de una parte de nuestro territorio; y al mismo tiempo ahuyentar la posibilidad de que, por ciertas dadas, el Presidente de la República y la Asamblea Nacional dispongan de un municipio, de una provincia o de una isla de este Archipiélago a favor de uno de los varios países que, por saber que en el seno de nuestras montañas se guarda oro de altísima ley, en el corazón de nuestros bosques se encierra un tesoro de inmenso valor y en el fondo de nuestros mares se esconden riquezas inagotables, codician tanto esta tierra de nuestros amores.

Si queremos, Señor Presidente y Caballeros de la Convención, preservar íntegro para la posteridad el territorio nacional en la forma como está delimitado en el artículo 1 de este título; si queremos que nuestros hijos y los hijos de nuestros hijos no sean tentados con el brillo del vil metal por naciones extrañas para disponer prodigamente del país que han de heredar de nosotros, os pido que adoptemos la enmienda propuesta.

MR. GRAFILO: Mr. President, may we ask that the amendment again be read?

EL PRESIDENTE: Léase la enmienda de nuevo. (El Secretario la lee.) Tiene la palabra el Comité.

DISCURSO DEL SR. ROXAS

SR. ROXAS: Señor Presidente y Caballeros de la Convención: Siento no poder concurrir en la aprobación de esta enmienda, por varios motivos. En primer lugar, creo que no es necesario preceptuar en la Constitución que el Gobierno no ha de tener facultad para enajenar parte de nuestro territorio sin el consentimiento de una convención constitucional. La Legislatura no tiene facultad de enajenar ninguna parte de nuestro territorio, porque la enajenación de territorio no está envuelta en el ejercicio del poder legislativo. Así como un individuo que solamente tiene la facultad de administrar una propiedad, no puede enajenar la propiedad, tampoco los funcionarios, cuyos poderes son autorizados por la Constitución tienen la facultad de enajenar nuestro territorio. Otra razón más que abunda contra esta limitación, es el hecho de que, precisamente, cuando fijamos los límites de nuestro territorio nacional en la Constitución sin dar facultad a ninguno de nuestros funcionarios de cambiar los límites de nuestro territorio, eso mismo envuelve ya la prohibición de modificar esos límites. El segundo

argumento es, que en esta enmienda no parece sino que se faculta a una Asamblea Constituyente para autorizar la enajenacion de nuestro territorio Yo creo que todos convienen en que una Asamblea Constituyente no tiene facultad propia y solamente podra autorizar la enajenacion si la Asamblea Constituyente, despues de acordada la enajenacion, sometiera su acuerdo al pueblo y fuera ratificado por todo el pueblo. Hay precedentes en los Estados Unidos, Señor Presidente, con respecto a este particular. La misma cuestion de si el Congreso de los Estados Unidos tendra derecho de enajenar su soberania sobre las Islas Filipinas, ha provocado una discusion bastante interesante respecto a si el Congreso de los Estados Unidos tiene derecho o la facultad de enajenar parte del territorio de los Estados Unidos, aunque esta cuestion no esta resuelta por la Corte Suprema de los Estados Unidos. Los precedentes politicos y diplomaticos de America demuestran que el Congreso de los Estados Unidos no tiene facultad para enajenar parte del territorio integral de los Estados Unidos, es decir, el Congreso de los Estados Unidos no puede enajenar parte del territorio que comprende la jurisdiccion de un Estado, precisamente porque el Congreso no es mas que la criatura del gobierno formado por estos Estados. En el famoso caso del tratado de Canada e Inglaterra, o sea entre America e Inglaterra, fijando los limites entre Canada y los Estados Unidos, cuya delimitacion se hizo en virtud del Tratado denominado Webster-Asquith Treaty, se decidio por el Gobierno de los Estados Unidos que era un caso que envolvia una delimitacion o fijacio del lindero internacional; que esto no envolvia enajenacion del territorio que comprende los limites de un Estado. Era el consenso de opinion del Departamento de Estado de America y era la opinion personal del entonces Secretario, Señor Webster, que en un caso como este, el Gobierno de los Estados Unidos, por virtud del Tratado, no tendria facultad para enajenar ese territorio sin el consentimiento expreso en un plebiscito de los habitantes de ese Estado. Por estas consideraciones, creo que no es necesario incluir esta limitacion y si es necesario incluir, se deberia incluir en la parte de la Constitucion que se refiere a los deberes de la Legislatura.

Un argumento mas, y voy a terminar. En casos en que un pais se ve obligado a enajenar parte de su territorio, la facultad de enajenar parte del territorio de un Estado residiria en el Congreso. En un caso, por ejemplo, en que la enajenacion de este territorio quedase envuelta en un Tratado de Paz, cuando por fuerza mayor, con el objeto de terminar una guerra, se haya pactado la enajenacion de un Estado a otro poder, un tratadista intenacional dice que el poder de enajenar el territorio de una nacion corresponde al Congreso y al Gobierno de los Estados Unidos, como resultado de todos los poderes que les confiere la Constitucion. Usando de su propio lenguaje dice:

"Bajo la teoria de que, al formarse el gobierno nacional de los Estados Unidos, debe presumirse que los diferentes Estados han conferido a ese gobicrno todos aquellos poderes poseidos por otras naciones del mundo que tienen tratos o contacto con las otras potencias, y que es imposible presumir que, al crearse el Gobierno de los Estados Unidos no se le hayan dado todos aquellos poderes que otros paises independientes tienen. Pero solamente en esos casos, cuando por fuerza mayor, o porque el interes nacional asi lo demanda, se permite la enajenacion del territorio.

MR. LAUREL: Mr. President, will the Gentleman yield?

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

MR. ROXAS: With pleasure.

MR. LAUREL: Just one question. Gentleman from Capiz. I understood from your statement that under the Constitution of the United States, it will not be legal to alienate any territory of the United States without the consent of the State?

MR. ROXAS: Without the consent of the State.

MR. LAUREL: So that with the consent of the State, a territory which belongs to another State may be alienated

by the Federal Government?

MR. ROXAS: Yes, that is the opinion of Daniel Webster in connection with the legal questions that were raised.

MR. LAUREL: I understand, Gentleman from Capiz, that the territory-making power of the United States Government under the Constitution is almost absolute and that that power is limited only by two restrictions: first, that one already mentioned by the Gentleman, that the Federal Government cannot alienate a territory belonging to any State without the consent of the State; and second, that the Federal Government cannot enter into any treaty providing for the change of the republican character of the government of any state. I hear from the Gentleman that it is not possible to alienate a territory of the United States without the consent of the State concerned. Now, let me put up the situation in the case of the Philippine Islands; if the rulings in the United States are applicable to the Philippine Islands. I can very well imagine a situation like this: supposing that there is a war—I am not anticipating any war, but that is a possibility—supposing the Philippines is independent completely, and by some force of circumstance, war is declared between, let us say, the Philippines and China; and the treaty in the way suggested by the Gentleman, in the case of the United States, is entered into between the Philippines and China, providing for the cession of a part of the territory of the Philippines to China. I would like to find out whether the cession of the territory belonging to the Philippines will be valid under the treaty-making power of an independent government of the Philippines, assuming that it will not be possible to imagine, in case of cession, the validity of that cession without the consent of the State.

MR. ROXAS: I should say that the treaty will be valid if we remain silent, if this is not included in this Constitution. Because we must assume that, in creating the Government, we are going to endow that Government with all those powers and prerogatives usually assumed and possessed by an independent nation. If we remain silent, if this provision is not inserted, that treaty will be valid; but if this provision is inserted, it will deny the validity of that cession.

MR. LAUREL: But does not the Gentleman believe that in a situation like that, the relation between China and the Philippine Islands will not be governed by our Constitution but by international law? In other words, China will be called upon to live up to that agreement, not because of the Constitution because China has nothing to do with our constitution. She will be called upon to live up to the agreement under international law.

MR. ROXAS: That would be a very good argument from the mouth of a Chinaman but not from the mouth of a Filipino who has to show to the people that the rights of our Government are being exercised in accordance with our Constitution. If you insert in the Constitution a provision that no one has the right to alienate any territory, if you insert that expression prohibiting the treaty-making power under the Constitution, no one will have the power to make that alienation, and you will be placing the Executive and the Assembly in a situation where they will be violating the Constitution, which is the supreme law of the land.

MR. LAUREL: But does not the Gentleman believe that if the provision is inserted in the Constitution, to my mind, the Government of the Philippines, under no circumstances, can alienate a territory, and if the forces of the Philippines are subjugated or subdued in that case it will be invalid under the Constitution because the only way that a portion of the territory of the Philippine Islands may be alienated is by complete and entire subjection of the people and the territory of the country?

MR. ROXAS: That would be a very nice speech to deliver but, Mr. President, what are you going to do with the President who signs a treaty ceding under force of arms a portion of our territory in order to bring about peace if that is not authorized by the Constitution? You would direct impeachment not only to the President but also to the members of the National Assembly. What is the alternative? They do not sign the treaty. And even if they want to conclude the treaty of peace, they cannot do it because the terms cannot be carried out as a result of the provision

in the Constitution. So I believe we should remain silent. I believe that the Constitution should not say anything on the subject. Let us assume the Legislature cannot alienate a portion of the territory except under duress, under force majeure, under the employment of force. But if you do let that action be at least constitutional, those who are responsible for having- taken action may not face impeachment proceedings, punishment by the people, merely because they have ended the war.

MR. ARUEGO: Mr. President, will the Gentleman yield?

EL PRESIDENTE: El Caballero puede contestar, si le place.

SR. ROXAS: Si, Señor.

MR. ARUEGO: Does not the Gentleman think that if the power of the Congress of the United States to alienate is questioned, it is because that Congress is an agency of delegated powers through one provision authorizing it to alienate territory? In the case of the Philippine Government, the National Assembly is an agency of general powers of legislation subject to the imitations prescribed therein. There being no provision in the Constitution prohibiting the National Assembly to alienate territory, can we not conclude as an interpretation of the power of the Assembly that the National Assembly has also the power to alienate?

MR. ROXAS: I should say, in case of emergency. In ordinary cases, that does not pertain to the exercise of legislative powers. What is legislation? Legislation is providings rules of conduct for individuals. When you alienate territory you are not legislating, you are transferring territory which belongs to the nation, precisely because when you say legislate, you pass laws for the Philippine Islands, which comprises that territory. By common sense we know that the Legislature has no power, except under extraordinary circumstances, to diminish that territory.

MR. ARUEGO: Is it not a common fundamental process in constitutional law that unless the powers of government are vested in the branches of government, these powers are considered to be vested in the Legislature ?

MR. ROXAS: No, because there are many powers which the Government wishes to retain, subject to the Constitution, and one of them is that this territory will be the territory of the Philippine Islands. It is made so by the Constitution, and the people have not given any branch of the Government the power to diminish or alienate a portion of that territory.

MR. ARUEGO: I think that the grant of general powers to the National Assembly consists in conceding to that Assembly the power to do everything subject to the limitations of the Constitution.

MR. ROXAS: I should say everything that is legislative in nature.

Siento tener que interrumpir a estos Caballeros, porque voy a someter una cuestion de orden. Anoche sepresento una enmienda de la misma naturaleza. El Caballero de Sorsogon, Senor Reyes, presento una enmienda, introduciendo la palabra "ineligible" en el Artículo 1, cuyo fin era el mismo que persigue ahora la enmienda del Caballero de Pampanga.

EL PRESIDENTE: La Mesa recuerda esa enmienda y resuelve que no es de la misraa naturaleza.

SR. ROXAS: No quiero tomar mas tiempo de la Convencion y voy a terminar. Voy a decir solamente que los miembros de la Convencion deben pensar en una situacion que podria crearse aqui, de que si no damos a nadie la facultad, aun en los casos extremos en que tenemos que pactar la paz bajo ciertas condiciones, crearemos una situacion en que no podriamos pactar la paz y la guerra continuaria.

MR. PEREZ (J.): Will the Gentleman yield?

EL PRESIDENTE: El orador puede contestar, si lo desea.

MR. ROXAS: Con mucho gusto.

MR. PEREZ (J.): The Gentleman has cited here an opinion of Webster in the case of a treaty which fixes the boundary of Maine and Canada. It so happens that there is no precedent in America wherein American territory was alienated. Does the Gentleman know that this opinion of Daniel Webster was contradicted?

MR. ROXAS: Never contradicted. Not only that but all writers on the subject, when dealing with this question, always go back to the opinion of Webster and say that unless the people so authorize. Congress cannot alienate any portion of the territory.

MR. PEREZ (J.): Does the Gentleman know that John V. Moore, recognized authority on international law, has deviated from the opinion of Daniel Webster? The Ashburton treaty is cited as an instance in American history where American territory was alienated. Therefore, authorities have contradicted Webster's opinion.

MR. ROXAS: The matter of the Ashburton treaty was different, because it was not alienation of territory. The question was to fix the boundary between Main and Canada. And Webster did that without obtaining the consent of the people of Maine.

MR. PEREZ: My point is that there is an American author who holds it as an instance where American territory was alienated.

SR. ALKUINO: Señor Presidente, para algunas preguntas al Caballero.

EL PRESIDENTE: El Caballero de Capiz puede contestar si lo desea.

SR. ROXAS: Con mucho Gusto.

SR. ALKUINO: El Delegado por Capiz decia que el Congreso no tiene la facultad de enajenar territorios. Bien; respecto a Filipinas, cuando Filipinas fue adquirida por los Estados Unidos, no tengo ahora el texto, porque se ha presentado esta cuestion de pronto, pero parece ser que los democratas, hacia el año 1901 o 1902, se opusieron a que Estados Unidos adquiriese Filipinas, y esta cuestion parece ser que se sometio a la consideracion de la Corte Supreme para que decidiera sobre la facultad del Congreso de Estados Unidos de adquirir territorios.

SR. ROXAS: ¿Cual es la pregunta del Caballero?

SR. ALKUINO: Es preliminar. Entonces la Corte Suprema, segun recuerdo, decidio por cinco votos contra cuatro, que el Congreso de Estados Unidos puede adquirir territorios a mas de nueve mil millas de distancia. Bien; ahora que Filipinas es ya de Estados Unidos, el Congreso tiene ahora la faeultad de enajenar a Filipinas y, sabiendo como sabemos que muchos de los congresistas americanos se oponen a la independendencia o a la enajenacion de Filipinas

SR. ROXAS: Parece que Su Señoria quiere pedir mi opinion sobre si el Congreso Americano tiene la facultad de dar la independendencia a Filipinas . . .

SR. ALKUINO: O enajenar.

SR. ROXAS: O enajenar su soberañia. Creo que no es esa la cuestion, y yo diria que aun en el caso de que fuese cierto que tengo la opinion legal de que America no tiene esa facultad, yo sostendria publicamente que America tiene esa facultad. Pero esa cuestion esta casi resuelta en los Estados Unidos; de los senadores que tuvieron oportunidad de discutir este asunto, 96 estaban a favor de la tesis de que America tiene facultad para declarar a

Filipinas independiente y de enajenar su soberania sobre este pais. No hubo mas que el Senador Copeland opuesto a esta tesis. La proposicion sobre la facultad de America de enajenar a favor de nosotros nuestro territorio, se funda en el poder que puede deducirse de la facultad de adquirir. Bajo la Constitucion americana, el Congreso tiene facultad de adquirir territorios, y, por tanto, dicen los tratadistas, el que teine facultad de adquirir tiene facultad de enajenar, y America ha estado adquiriendo territorios ya mediante tratados de paz con Mejico y otras potencias, ya por compra, como en el caso de la Lousiana y de Alaska.

Otra fase de esta facultad. Un articulo de la Constitucion americana dice que el Congreso tiene facultad para regular y determinar el gobierno de los territorios de los Estados Unidos. Aunque muchos creen que esta es la base verdadera de la facultad del Congreso, sin embargo el Treaty Making Power, es decir, el poder del Congreso de entrar en tratados internacionales en virtud del cual puede adquirir territorios es el mismo procedimiento mediante el cual puede enajenar territorios. Pero, segun el tratadista Willowy, que es el autor mas moderno sobre la cuestion, y su trabajo sobre teorias constitucionales ha dado bastante espacio a este asunto, dice que la facultad de los Estados Unidos de dar la independendencia a Filipinas se funda en lo que el llama "resultant power;" es decir, la facultad de resolver el problema de Filipinas en relacion con los Estados Unidos.

SR. ARANETA: Senor Presidente, para algunas preguntas al orador, si el me las permite.

EL PRESIDENTE: El orador puede contestar, si asi lo desea.

SR. ROXAS: Con mucho gusto, Señor Presidente.

SR. ARANETA: Desearia preguntar a Su Señoria, como uno de los miembros del Subcomite de Siete que ha redactado este proyecto, si, bajo este proyecto, una provincia o una parte de Filipinas podria, mediante plebiscito, segregarse y declararse separada de Filipinas.

SR. ROXAS: Creo que no, y la razon es muy sencilla. No estamos reconociendo soberanias geograficas en esta Constitucion; aqui no hay mas que una soberania y es la soberania de todo el pueblo filipino y solamente el pueblo filipino, obrando constitucionalmente, puede resolver esa cuestion. Los habitantes no ya de una provincia, sino de toda la isla de Mindanao, por ejemplo, aunque voten unanimesmente, no podran dejar de ser filipinos.

MR. REYES (J.): Will the Gentleman be kind enough to answer a few question as a matter of information?

THE PRESIDENT: The Gentleman from Capiz may answer if he so desires.

SR. ROXAS: Voy a contestar dos preguntas solamente, Señor Presidente.

MR. REYES (J.): The Gentleman said that in the United States the authority to alienate territory may be exercised with the consent of the States. Inasmuch as in the Philippines there are no States, is not the authority left to the national government completely?

MR. ROXAS: Yes, in extreme cases, I should say; not in the ordinary course of legislation.

MR. REYES (J.): Assuming that an extreme case, in the opinion of the President of the Philippine Republic and of the National Assembly, has arisen, and a portion of our territory has been alienated by a foreign power, is there a contitutional or peaceful proceeding by which the decision can be reviewed?

MR. ROJAS: The decision of the Government of Philippine Islands?

MR. REYES (J.): The decision of the Government of the Philippine Islands.

MR. ROXAS: Mr. President, I do not believe that we will reach a situation of that sort. Between the signing of the protocol and the signing of the treaty, there will be ample time for the deliberation and discussion of this subject. I

do not believe there will be Filipinos in the National Assembly representing the people of these Islands who will consent to the absolute decision of the majority of that body to ratify a treaty, alienating a portion of our territory. Mr. President, if we shall have come to a situation where we can presume that the President elected by the people of the Philippine Islands is willing to turn traitor to his country and affix his signature to a treaty ceding a certain portion of our territory, where the majority members of the National Assembly are traitors to our cause, then let us despair of ever establishing a government intended to be useful to the people, to best serve the interest of the country. There is a friend of mine who asked me this: "What about the question of Hawaii?" The question of Hawaii is out of place, is not the point. When the members of the Hawaiian Legislature ratified the treaty, it was ratified not by Hawaiians but by Americans. I see that there is no case to compare the example that the Gentleman from Sorsogon has preferred.

MR. REYES (J.): Mr. President, if the Gentleman from Capiz permits me to ask one more question, I shall be through. Assuming that the National Assembly has exercised its authority and made its decision, there is only one possible method by which the decision can be reviewed and, that is, by an appeal to the courts questioning- the constitutionality of the decisions of the executive, legislative, and judicial departments of the Philippine Government. Is that correct?

MR. ROXAS: Yes, that is a course, but I do not believe it would be effective.

MR. REYES (J.): Under the provision of the draft of the Constitution regarding the point as to whether or not a certain law can be declared unconstitutional, the concurrence of five of the seven Justices of the Supreme Court is required. Therefore, if we were to take this course, the objection of three of the seven members of the Supreme Court of the Philippine Islands would be sufficient to prevent any review on the part of the judicial department of Government of an executive and legislative decision of that Government. I take it that the Gentleman from Capiz agrees with the interpretation.

MR. ROXAS: Yes, that means the Gentleman from Sorsogon believes that we will deprive a portion of our territory, by the treacherous conduct of the President whom we elected, by the treacherous conduct of the majority members of the Assembly and by the treacherous conduct of the three Justice of the Supreme Court. I do not believe that that is possible.

SR. CUENCO: Señor Presidente.

EL PRESIDENTE: Señor Delegado por Cebu.

SR. CUENCO: Pido que se lea la enmienda a la enmienda.

EL PRESIDENTE: Lease.

EL SECRETARIO:

Suprimanse las palabras "of a constitutional convention called for that purpose," y en su lugar insertese lo siguiente: "approved by a majority of qualified voters of the Philippines in a plebiscite called for the purpose."

EL PRESIDENTE: ¿Que dice el proponente de la enmienda?

SR. BAUTISTA: Que aeepta la enmienda a la enmienda.

SUSPENSION DE LA SESION

EL PRESIDENTE: Si no hay ninguna objecion, se suspende la sesion por algunos minutos. (No hubo objecion.)

Eran las 6:13 p.m.

REANUDACION DE LA SESION

EL PRESIDENTE: Se reanuda la sesion.

MOCION DE APLAZAMIENTO

SR. PERFECTO: Señor Presidente, teniendo en cuenta que la materia objeto de la enmienda corresponde mas bien a la materia referente al poder del Presidente de celebrar tratados, propongo que se aplaze la consideracion de esta enmienda para cuando la Convencion considere el titulo correspondiente a los poderes del Presidente.

SR. CUENCO: Nos oponemos.

MR. LIM: Mr. President, I object to the motion presented by the Gentleman from Manila. Article I of the draft deals with the national territory in general terms. It does not talk of the limitation of territory as a particular object. It deals with the national territory in general. We are on this subject actually, and the amendment proposed by Delegate Cuenco to the amendment of Delegate Bautista is most proper at this time, so I object to its postponement.

EL PRESIDENTE: La Mesa entiende que la mocion del Delegado por Manila es oportuna. Se trata de una cuestion que no debemos resolver con precipitacion. De todos modos, la cuestion envuelta en la enmienda del Delegado por Pampanga cae dentro de la facultad del Presidente del Commonwealth o de la Republica Filipina de celebrar tratados. Se puede trasladar esta cuestion al lugar referente a la facultad del Presidente de celebrar tratados, en el sentido de excluir de ella o limitarla cuando el tratado implique la concesion de territorios, y para no atascarnos, por una parte, en nuestro trabajo, y poder, por otra parte, estudiar con mas detencion la enmienda del Delegado por Pampanga, la Mesa cree que esta mocion del Delegado por Manila es oportuna. Los que esten conformes con la mocion del Caballero de Manila tengan la bondad de decir si. (Una mayoria: si.) Los que esten en contra, sirvanse decir no. (Una minoria: No.) Aprobada.

Leanse otras enmiendas.

EL SECRETARIO:**ENMIENDA DEL DELEGADO CARIÑO**

En la pagina 2, linea 5, insertese entre las palabras "be" y "acquired" la palabra "legitimately."

EL PRESIDENTE: ¿Hay alguna objecion a que esta enmienda se traslade al Comité de Estilo? (Silencio.) Asi se acuerda.

Otra enmienda.

EL SECRETARIO:**ENMIENDA VILLARAMA**

En la pagina 2, linea 4 y 5, suprimanse las palabras "or which may hereafter be acquired by the Philippines,"

EL PRESIDENTE: ¿Que dice el Comité?

SR. SOTTO (F.): El Comité no acepta la enmienda.

VARIOS DELEGADOS: Que se vote.

EL PRESIDENTE: Los que esten a favor de la enmienda del Delegado por Bulacan tengan la bondad de decir Si. (Una minoria: Si.) Los que esten en contrasirvanse decir No. (Una Mayoria: No.) Rechazada. Otra enmienda.

ENMIENDA DIKIT

En la pagina 2, entre las lineas 5, y 5 insertese un nuevo articulo del tenor siguiente: "Sec. 2.—until the National Assembly shall provide otherwise, the capital of the Philippines shall be Manila which shall also be the official seat of the government."

EL SECRETARIO

EL FRESIDENTE: ¿Que dice el Comite?

SR. SOTTO (F.): El Comite lo deja a la discrecion de la Asamblea.

EL PRESIDENTE: ¿Desea el proponente de la enmienda razonarla?

SR. ENCARNACION: Señor Presidente, tengo una enmienda a la enmienda del Delegado por Rizal, la cual creo que debe considerarse antes.

EL PRESIDENTE: Lease la enmienda a la enmienda.

EL SECRETARIO:

ENMIENDA ENCARNACION A LA ENMIENDA DIKIT

En la pagina 2-A, al final de la linea 9, anadase lo siguiente: "que tan pronto como se inaugure la Republica Filipina, Tagaytay sera la capital de Filipinas o asiento del gobierno independiente de Filipinas."

SR. ABELLA: Señor Presidente, en vista de que Tagaytay es un punto desconocido por los Delegados, deseamos oir del Delegado por Cavite algo sobre dicho lugar.

EL PRESIDENTE: Tiene la palabra el Delegado por Cavite.

EL SR. ENCARNACION RAZONA SU ENMIENDA

SR. ENCARNACION: Señor Presidente y Caballeros de esta Asamblea: Esta mañana me dedique, a leer algunos documentos en nuestra Biblioteca Nacional, y, afortunadamente, encuentre uno que fue preparado por el mismo Director de la Biblioteca el año 1931, y como tiene aplicacion completa a mi tesis, lo hago mio, y para no perder tiempo voy a permitirme leerlo, pues describe lo que es Tagaytay, las ventajas de Tagaytay, y por que Tagaytay debiera ser la capital del Archipielago.

SR. CONFESOR: Señor Presidente, para una pregunta al orador.

EL PRESIDENTE: El orador puede contestar, si le place.

SR. ENCARNACION: Si, Señor.

SR. CONFESOR: ¿Quien es el dueño de Tagaytay?

SR. ENCARNACION: Voy a contestar a Su Señoria despues de leer este documento.

SR. RAFOLS: Senor Presidente, para una pregunta al orador.

EL PRESIDENTE: El orador puede contestar, si le place.

SR. ENCARNACION: Si, Senor.

SR. RAFOLS: ¿No es verdad que Tagaytay seria facil presa de una escuadra enemiga que viniese, porque mira a la bahia de Manila?

SR. ENCARNACION: Despues de que yo les haya leido estas paginas, vera Su Senoria lo que es Tagaytay y por que estoy interesado en Tagaytay.

MR. CABILI: Mr. President, in view of the fact that the speech to be read by the Delegate from Cavite is only a copy of an article written by Mr. Kalaw, I move that it be simply inserted in the record in order to save time.

MR. LIM: We object to that, Mr. President.

MR. CAPILI: My motion has been duly seconded, and I ask that it be voted upon.

THE PRESIDENT: It is the privilege of the Delegate to read that speech. He has fifteen minutes.

SR. ENCARNACION: El documento del Director de la Biblioteea Nacional explica donde debe estar nuestra capital. (El orador lee el documento.)

EL PRESIDENTE: Se va a votar la enmienda del Delegado por Cavite. Los que esten a favor de la enmienda, digan Si. (Una minoria: Si.) Los que este:i en contra, digan No. (Una mayoria: No.) Rechazada. Esta en orden la enmienda del Delegado por Rizal, Señor Dikit.

SR. DIKIT: Mi propuesta enmienda es como sigue:

En la pagina 2, entre las lineas 5 y 6 insertese un nuevo articulo del tenor siguiente: "Sec. 2.—Until the National Assembly shall provide otherwise, the capital of the Philippines shall be Manila which shall also be the official seat of the government."

(Prosiguiendo.) Mr. President and Gentlemen of the Convention: My proposed amendment seeks to accomplish two things: first, to name the capital of the Philippines, and second, to designate the official seat of the Government. This amendment is proposed in view of Article 7, Legislative Department, Section (3), page 10, which says: "The National Assembly shall convene at the capital . . ." and so on. The name of the capital is not mentioned anywhere in the Constitution, and I believe that it should be, for clearness sake. This is not the first time this proposition has come up in a body charged with the duty of framing a constitution for the Philippines. In the Constitution Nacional de las Islas Filipinas, prepared by various Filipinos, including Don Cayetano Arellano, the former Chief Justice of the Supreme Court, and presented to the Philippine Commission in 1899, the City of Manila is named as the capital of the Philippine Islands (Article 2). Other constitutions, such as those of Czechoslovakia (Article 5), Turkey (Article 2), Spain (Article 5), Republic of China (Article 5)—in each of these constitutions—the name of the capital is mentioned, that is, the capital of the nation.

Now, if these nations, which had long existed before they became republics, saw fit to mention their capital in the Constitution, we Filipinos, who are just about to form our government with a view to attaining our independence, should with more reason name ours. Our geography shows Manila as the capital but that has not been placed in an important document, like the Constitution. This is the first opportunity, since the establishment of American sovereignty in the Philippines, that we have been given the power to draft our Constitution, and I believe that in drafting that Constitution we should begin properly by putting everything that is ours by custom and practice. I say by custom and practice, because Manila has always been known as the capital, as the seat of our government. If that is the case, we should put it as such in the Constitution. I, therefore, hope that the Gentlemen of the Convention will see their way clear to approving this proposed amendment. At any rate, it will cause no harm; on the contrary, it will clarify a situation.

EL PRESIDENTE: Se va a votar la enmienda. Los que esten a favor de la enmienda digan Si. (Varios Delegados:

Si.) Los que esten en contra digan No.) (Varios Delegados: No.). Division. Los que esten a favor que se levanten. (Se levantan 43 Delegados.) Los que esten en contra, que se levanten ahora, (Se levantan 69 Delegados,) Por 69 votos negativos contra 43 afirmativos, se rechaza la enmienda.

SR. YSIP: Señor Presidente, para una informacion. He presentado una enmienda al proyecto de Constitucion, declarando capital de Filipinas la Ciudad de Manila y, ademas, trasponiendo una disposicion referente a la ciudadania al titulo sobre Disposiciones Generales, y quisiera saber si se podra considerar dicha enmienda cuando discutamos sobre las Disposiciones Generales.

EL PRESIBENTE: Ya esta votada esa disposicioa, y no importa el sitio en que conste. Lease otra enmienda.

EL SECRETARIO:

By Delegate Vinzons: on page 2 of the English text, after line 3, corresponding to page 2-A, line 9, of the Spanish text, add the following section:

SEC. 2. OTHER TERRITORIES MAY BE INCORPORATED INTO THE COMMONWEALTH BY LAW, IF THEIR INHABITANTS, EXERCISING THE RIGHT OP SELF-DETERMINATION, SO DESIRE.

DISCURSO DEL SR. VINZONS

MR. VINZONS: Mr. President and Gentlemen of the Assembly: At this stage of the discussion of the draft of the Constitution, when copies of proposed amendments are not first distributed among the delegates, the successful passage of a proposition seeking a change in the draft is extremely difficult. The last two days, Mr. President, have seen a good number of amendments fail to win the support of this Convention. To propose one now, especially in order to ingraft an additional section, requires a certain degree of courage to meet an almost inevitable rejection. But in presenting my proposition to the honorable members of this Assembly, I am only prompted by my duty to the people to bring, for your consideration, a matter 'which I consider of fundamental importance. I shall consider myself relieved from responsibility, and the consequences of a humiliating defeat shall not burden my conscience, for all that I crave for, Mr. President, is that the matter be discussed with an open mind, ready to receive impressions and to react to arguments. My hope, Mr. President, is that we shall vote on this proposition with a full realization of its importance, and after I am through with my speech, T shall be ready to clear any doubts in your minds.

The amendment proposed by the humble speaker, myself, tonight, and several others is substantially as follows: Sec. 2. Other territories may be incorporated into the Commonwealth by law, if their inhabitants, exercising the right of self-determination, so desire." For the information of the members of this Convention, I want to say that this is not a new constitutional precept because it was included in the original report of the Committee on Delimitation of Territory, in the following form:

"Other territories may be added to the country by law if the inhabitants thereof, exercising the right of self-determination, shall so desire."

Mr. President, in making a revival of the provision as originally proposed by the Committee on Delimitation of Territory, I want to call your attention to the salient fact that we are at present entering into a free and independent existence. We shall be a nation, sitting on equal footing with the other nations of the civilized world, and our status of independence must be supported, Mr. President, by a certain degree of force.

SR. PELAYO: Señor Presidente, para una aclaracion.

EL PRESIDENTE: Puede contestar el Caballero si lo desea.

MR. VINZONS: If the Gentleman insists, I will answer him.

MR. PELAYO: I just want to know whether the term "if their inhabitants, exercising the right of self-determination, so desire" refers to a people exercising sovereignty?

MR. VINZONS: That is what it means, Mr. President. (Continuing.) The Philippine Islands has a population estimated in 1929 at 12,472,260 souls and a total area of 414,360 square miles. Imagine, Mr. President, the Philippines in such a situation, with a population of twelve million and an area of 414,000 sq. miles, clashing with a nation of gigantic dimensions, a nation of such a tremendous population and such a big area as we can conceive. Mr. President, according to the latest census, Japan has a population of 83,000,000 million and an area of 265,000 sq. miles, and the sleeping giant of Asia, the Chinese Republic, contains a population of 439,759,389 souls, and has a total area of more than four million square miles.

Mr. President and Gentlemen of the Convention, I bring to your attention the fact that in case of a clash between independent nations, the only arbiter is neither the League of Nations nor public opinion but the means of force. The Philippines is primarily and essentially inhabited by people of Malay blood. If we go to the history and development of the Malayan people, we shall understand, Mr. President, that the only salvation of a free and independent Philippine Republic lies in the unification of peoples of the same racial stock: I call your attention to a statement made by the great historian and scientist, Huxley, that "the original dispensers of civilization and of civilized ideas were not the white or the Caucasian peoples. Those who originated the present state of civilization throughout the world were the brunette or brown peoples who many centuries, thousands of years, before pioneered their way from the vast Pacific and thereafter settled on the shores of the Mediteranean." The great historian affirms that the civilizations of Egypt, of Babylon and of Macedonia were founded on what had been laid down by the brunettes who had brought with them the gems of civilization that ultimately became the grandeur of Greece and the glory of Rome.

Mr. President, in the year of 1521, when the Philippines was discovered, we were a part of the great nation of Borneo, under the personal tutelage of the Sultan of Sulu. The present Sultan claims a certain jurisdiction over North Borneo, but, according to allegations, a treaty extracted by the British Government has deprived him of that jurisdiction.

Then let us go over the history of the much-despised Malay race. We find that in Indo-China there remains the City of Angkor-Thom; in Sumatra the great temple of Burubudor, and in the Philippines itself, we have one of the Seven Wonders of the World—the rice terraces of the Mountain Province.

If we go further, Mr. President, we shall find that the Egyptian and Babylonian temples were constructed through the ingenuity of the original Malay settlers.

The white man, with his vaunted principles of liberty, equality and fraternity suppressed the natives and imposed foreign rule. While preaching he introduced his own ways, intent upon the promotion of common happiness. He has conquered the native institutions and tried to eradicate all vestiges of the past, emphasizing the grandeur of his own. From Malaysia, extending to the shores of America, until Polynesia and Formosa, we find him a powerful factor in the oceans of the world. At this juncture, I wish to call your attention to the most recent development in Pacific events Europe has ceased to be the center of the world's unfolding drama. America will not be the scene of the great controversy of the world in the coming years. The Pacific Ocean, Mr. President, with its thousands and thousands of tiny islands, inhabited by kindred races whose independence and liberty have been suppressed because of the white man's desire to convert the brown peoples to mere hewers of wood and drawers of water, has stultified the development of the Malay Empire. I want to bring to your attention the comparative areas of the other nations of the world inhabited by brown peoples. The East Indies, which is at present controlled by Holland,

has a population of 31 million and an area of 788,000 sq. miles. The Federated Malay States has a population of 1,324,000 and has an area of 27,503 sq. miles. The Straits Settlements contains a population of over one million souls with an area of 1,800,000 sq. miles. Indo-China has a population of 20 million and an area of 285,000 sq. miles. Madagascar, under the tutelage of France, has a population of 5,621,342 and an area of ever 214,000 sq. miles. Besides this, Mr. President, there are islands in the South Pacific, like the Canary, the Carolinas. the Japanese Mandated Islands, which should be within Malaysia.

MR. BUENO: Will the Gentleman yield to a question?

EL PRESIDENTE: Puede contestar el Caballero, si lo desea.

MR. VINZONS: Yes, sir.

MR. BUENO: Is it the Gentleman's obsession to present a pan-Malaysia?

MR. VINZONS: It is precisely a principle to which I have dedicated a part of my reading at present.

MR. BUENO: Does the Gentleman from Camarines Norte believe that with the inclusion of his amendments the national government will be empowered to acquire territory?

MR. VINZONS: I would answer the gentleman by discussing the various modes of acquisition of territory. According to well-recognized authors on constitutional law, there are two principal modes of acquisition of territory—the original mode and the derivative mode. The original mode consists in discovery and occupation or by accretion through natural forces. The derivative mode includes conquest, cession, exchange and other means. This includes, of course, the treaty-making power to acquire territory either by conquest or by cession. This provision does not come in conflict with the provision of Article 1, which states that the territory of the Philippines Islands includes "all territory over which the present Government of the Philippines exercises jurisdiction or which may hereafter be acquired by the Philippines." Mr. President, the modes of acquiring territory that I have specified are embodied in Article 1, Section (1). But when I propose this amendment, Mr. President, as a separate section of this Article 1, I want to emphasize the fact that in providing for the incorporation of other territory, we are not providing simply for its acquisition. Acquisition, Mr. President, signifies the total or entire amalgamation of the territory acquired into the general body politic of the country. But incorporation embodies the idea that the territory so acquired preserves its integral individuality and personality as separate, ceding only those obtained to the acquiring power or incorporation powers and at the same time providing for the article of the principle of the union.

SR. KAPUNAN: Para una pregunta al orador Señor Presidente.

EL PRESIDENTE: El orador puede contestar si lo desea.

MR VINZONS: Yes, sir.

SR. KAPUNAN: ¿Cual es el area de Formosa, segun los dato que tiene Su Señoria?

MR. VINZONS: The area of Formosa is about the same as that of Marinduque. I cannot state it exactly.

SR. KAPUNAN: ¿Sabe Su Señoria si Formosa tiene una poblacion de mas de un million de habitantes?

MR. VTNZONS: In the matter of population, according to the latest census, Formosa is mostly Japanese, although the original stock was Malay.

SR. KAPUNAN: Suponiendo que la poblacion de Formosa consista en unos 20 millones de habitantes, y por su propia determinacion quisiera incorporarse a Filipinas, naturalmente. bajo la enmienda, tendremos que admitir su

propia determinacion y recibir a Formosa como parte de Filipinas. Pero los veinte millones son mas que los trece millones que somos. Mañana, o pasado mañana, en vez de absorber seremos nosotros los absorbidos y por esa propia determinacion el dia de mañana Filipinas se convertiria en nacion japonesa.

MR. VINZONS: Mr. President, I would like to say, in the first place, that in accordance with the provision of the amendment, incorporation of territories can be exercised only by means of legislation, by law, and if we see that the incorporation of a territory is dangerous to our territorial integrity, we will refuse such incorporation ...

EL PRESIDENTE: ¿Esta dispuesta la Asamblea a votar la enmienda? (Varios Delegados: Si.)

SR. VINZONS: I ask for a nominal vote.

EL PRESIDENTE: La Mesa desea ver si hay una cuarta parte de los miembros presentes que apoyen la votacion nominal.

SR. ROXAS: ¿Tendria la Mesa inconveniente en conceder la palabra por cinco minutos solamente al Caballero de Pangasinan, Señor Aruego?

EL PRESIDENTE: ¿Tiene inconveniente la Asamblea en acceder a la peticion del Delegado por Capiz? (Silencio.) Aprobada.

Tiene la palabra el Delegado por Pangasinan, Señor Aruego

DISCURSO DEL SR. ARUEGO

MR. ARUEGO: Mr. President, I shall answer the Gentleman from Camarines Norte (Mr. Vinzons) in seven sentences. In the first place, I agree with him on the proposition that, as soon as possible, we should increase our territory, but I do not agree with him on the proposed amendment for the following reason:

In the first place, whether or not the expression "other territories may be incorporated by law" is included in the provision of the Constitution, the Philippines as a sovereign state, under the rules of international law, has the power to acquire territory. In the second place, in view of the fact that, in accordance with the legislative power vested in the National Assembly, the general powers are considered as the agency of the sovereign, the Philippines has the power to acquire territory. In the third place, the inclusion of the expression "if their inhabitants, exercising the right of self-determination, so desire" will preclude the Philippines from acquiring territory in other ways.

EL PRESIDENTE: ¿Insiste el Delegado por Camarines Norte en pedir la votacion nominal?

SR. VINZONS: Si, Señor.

EL PRESIDENTE: Los que esten conformes con la mocion, que tengan la bondad de levantarse. (Varios Delegados se levantan.) Hay el numero reglamentario a favor de la mocion.

La Mesa desea advertir a los Señores Delegados que para el decoro mismo de la Asamblea no debe haber munimientos. Se han pronunciado discursos sobre el asunto y la Mesa cree que los Miembros de la Convencion estan debidamente informados.

El Secretario leera la lista de los Delegados y los que estan a favor de la enmienda contestaran Si al ser llamados sus nombres, y los que no lo esten, contestaran No. Lease la lista.

EL SECRETARIO:

Señor Abaya ----- Si

Abella ----- Si

Abordo ----- Si

Abrigo ----- Si

Adduru ----- Ausente

SR. ALBERO: Señor Presidente. soy uno de los firmantes de la enmienda presentada, pero voto en contra.

EL PRESIDENTE: Sirvase hacer constar el voto negativo del Señor Albero.

EL SECRETARIO:

Sr. Albero ----- No

Aldeguer ----- Ausente

Alejandrino ----- Ausente

Alkuino ----- Ausente

Alonto ----- Ausente

Altavas ----- No

Ancheta ----- Si

Araneta ----- Si

Arenas ----- No

Arellano ----- No

Artadi ----- Ausente

Arteche ----- Ausente

Aruego ----- No

Balili ----- No

Baltao ----- Si

Bañaga ----- Ausente

Barrion ----- No

Bautista ----- No

Beltran ----- No

Benitez ----- Ausente

Benito ----- Ausente

Binag ----- No
Bocar ----- No
Bonto ----- Ausente
Señor Braganza ----- Ausente
Borbon -----
Ausente
Briones ----- Ausente
Buendia ----- Si
Bueno ----- Si
Buslon ----- No
Cabarroguis ----- No
Cabili -----
Ausente
Calleja ----- Si
Canonoy ----- Si
Caram ----- Ausente
Carin ----- No
Cariño ----- Si
Castillejos ----- Si
Castillo ----- Ausente
Castro ----- No
Cea ----- Si
Chioco ----- Si
Cinco ----- No
Clarín ----- Ausente
Cloribel ----- Si
Conejero ----- Ausente
Confesor ----- Si
Conol ----- Si
Crespillo ----- Ausente
Cruz (C.) ----- Ausente

Cruz (R.) ----- Ausente
Cuaderno ----- No
Cuenco ----- No
Curato ----- Si
Delgado ----- Si
Diez ----- Ausente
Dikit ----- No
Divinagracia ----- Si
Duguiang ----- Si
Encarnacion ----- Si
Enriquez ----- No
Señor Escareal ----- Ausente
Esliza ----- Si
Espeleta ----- Ausente
Fakangan ----- Si
Fernandez ----- No
Flores ----- Si
Francisco ----- Si
Gaerlan ----- Ausente
Galang ----- Si
Ganzon ----- No
Grafilo ----- Si
Grageda ----- Si
Guariña ----- Ausente
Guevara ----- Ausente
Gullas ----- Ausente
Gumangan ----- Si
Gumban ----- Si
Gutierrez, David ----- No
Guzman (Alej.) ----- Ausente
Guzman (Ant.) ----- Si

Guzman (B.) ----- Ausente
Guzman (J.) ----- Si
Hernaez ----- Ausente
Hontiveroz ----- No
Inting ----- Si
Irving ----- Si
Jose ----- Si
Joven ----- Ausente
Jumawan ----- Ausente
Kapunan ----- No
Kintanar ----- No
Labrador ----- Ausente
Lapak ----- Si
Laurel ----- Ausente
Ledesma ----- Ausente
Leonardo ----- Si
Lesaca ----- Ausente
Señor Liboro ----- Ausente
Lim ----- Si
Lizardo ----- Si
Lizares ----- Ausente
Locsin ----- Ausente
Lopez (E.) ----- No
Lopez (V.) ----- Ausente
Lorenzana ----- Si
Lorenzo ----- No
Lutero ----- No
Maglanoc ----- Si
Mansueto ----- No
Marabut ----- No
Maramara ----- Si

Martinez (M.) ----- Ausente
Martinez (R.) ----- Ausente
Maza ----- Si
Melendez ----- Si
Melendres ----- Si
Millar ----- No
Moldero ----- Si
Moncado ----- No
Montaño ----- Ausente
Montesa ----- Ausente
Montilla ----- Ausente
Montinola ----- Si
Morales ----- Si
Mumar ----- Si
Muñoz ----- Si
Navarro ----- Si
Nepomuceno (J.) ----- Ausente
Nepomuceno (R.) ----- No
Nepomuceno (V.) ----- Ausente
Niere ----- No
Ocampo ----- No
Orense ----- No
Ortega ----- No
Señor Ortiz (L.) ----- Si
Ortiz (M.) ----- Si
Osias ----- Ausente
Ozamis ----- Ausente
Palma ----- Si
Paredes ----- Ausente
Pelayo ----- No
Perez (G.) ----- No

Perez (T.) ----- No
Perfecto ----- Si
Piang ----- Si
Pio ----- Si
Prieto ----- Si
Quirino (E.) ----- Ausente
Quirino (D.) ----- Ausente
Rafols ----- No
Ramos ----- Si
Ranjo ----- Ausente
Reyes (G.) ----- Si
Reyes (J.) -----
Si
Ribo ----- Si
Ricohermoso ----- No
Rivera ----- Si
Romero ----- No
Romualdez ----- No
Roxas ----- No
Saguin ----- No
Salazar (A.) ----- Ausente
Salazar (V.) ----- No
Salumbides ----- Si
Sandiko ----- Ausente
Sanchez ----- Si
Sandoval ----- No
Santos ----- Si
Sanvictores ----- No
Sevilla ----- Si
Singson Encarnacion ----- No
Señor Sinsuat ----- Si

Sison ----- Ausente
Sobrepeña ----- Si
Sotto (F.) ----- No
Suñer ----- No
Surban ----- Ausente
Tanopo ----- No
Tulawi ----- Si
Velasco ----- Si
Ventenilla ----- No
Ventura ----- Si
Villamor ----- Ausente
Villanueva ----- Ausente
Villarama ----- No
Villareal ----- Si
Vinzons ----- Si
Ybañez -----
No
Ysip -----
Si
Yusay -----
Si
Zavalla ----- No
Zialcita ----- Si
Zurbito ----- Ausente

MR. PEREZ (J.): Mr. President, I would like to direct an inquiry to the Chair before the result of the voting is announced. According to the rule, no amendment can be signed by more than 25 Delegates. Now, this amendment which we are voting is signed by more than 25 Delegates.

THE PRESIDENT: The Chair will declare that out of order. The rule should be respected.

MR. PEREZ (J.) That is why I raised the question before the result of the voting was announced. It is a known fact that the amendment has been signed by more than 50 Delegates.

EL PRESIDENTE: Hay una enmienda presentada aqui que no esta firmada mas que por el Delegado por Camarines Norte, Señor Vinzons; pero he oido de un Delegado, al explicar su voto, que el ha firmado la enmienda. La Mesa desea saber si ademas de la enmienda del Delegado por Camarines Norte, Señor Vinzons, hay otras enmiendas, que circulan con otras firmas. La Mesa cree que no debemos consentir este procedimiento.

Desea que el Delgado por Camarines Norte, Señor Vinzons, diga a la Mesa y a la Convention si ha recogido firmas para la enmienda aunque no se ha registrado en la. Secretaria.

MR. VINZONS: Mr. President, I maintain that only 25 Members have signed my amendment.

SR. MORALES: Señor Presidente, no se ha presentado este documento al Secretario de la Asamblea, y mientras un documento no se presente al Secretario . . .

EL PRESIDENTE: No importa, la Mesa declara que aun en este caso, no se puede hacer esto, porque es una violacion indirecta del Reglamento que hemos adoptado. Debemos proceder aqui con lealtad con todo el mundo. La Convencion debe estar enterada de la de que si no hay mas de veinticinco Miembros firmados, esta en orden la enmienda.

MR. BOCAR: Mr. President, I venture the information that I was one of those who signed the amendment. I signed on the second page.

MR. VINZONS: Mr. President, if I am permitted to explain, I do not consider the signature of the Gentleman because, actually, he did not vote for my amendment.

MR. BOCAR: There is one additional page signed by other Members. I signed on the second or third page.

MR. VINZONS: Mr. President, it is immaterial.

MR. LAPAK: Mr. President, I voted in favor of the amendment, but I did not sign the amendment.

SR. ORENSE: Señor Presidente, para mi en esto esta envuelta una cuestion principal. No se ha presentado aqui mas que una enmienda suscrita por el Delegado Señor Vinzons, por lo tanto, ante los ojos de la ley, el unico documento que debe ser considerado por la Convencion es el que esta archivado en la Secretaria. La otra cuestion es si la Mesa tiene o no autoridad para exigir de un Delegado la enmienda que no ha presentado o que tiene guardada en el bolsillo.

EL PRESIDENTE: La Mesa no tiene derecho a exigir a ningun Delegado que presente algun documento, a menos que se haya denunciado en el "floor" de la Asamblea. Un Delegado ha dicho que el habia firmado la enmienda juntamente con el Delegado Vinzons, y, sin embargo, la enmienda presentada a la Mesa no lleva mas que la firma del Delegado Vinzons. Esta es una violacion de las reglas de la Asamblea, que no debemos permitir.

SR. ORENSE: No trato de discutir. Para mi la cuestion envuelta es si la Convencion entiende que se ha violado el Reglamento. Porque asi lo ha entendido la Mesa y la Convencion sostiene a la Mesa, pido entonces que el que ha faltado al Reglamento sea sometido al Comité de Gobierno Interior.

EL PRESIDENTE: En el documento presentado aqui ultimamente por el Señor Vinzons no hay mas que 21 firmas. Se dice que hay otras paginas ademas de esta pagina, que no se han presentado. Si bien la Convencion moralmente sabe que existe otra pagina, vamos a conceder que la enmienda esta en orden, porque de hecho no aparecen mas que 21 firmas aqui.

MR. VINZONS: May I say, Mr. President, that I know my constitutional right...

THE PRESIDENT: The Gentleman is out of order.

The Gentleman will please take his seat until the Chair has finished its remark.

MR. BUSLON: The statement of the Chair to the effect that copies signed by Delegates were circulated here, makes me wonder whether any Delegate, having a proposition or an amendment, is precluded, by virtue of the special rules, from campaigning for adherents to his ideas. THE PRESIDENT: He is precluded. If the Gentleman

wants to know why, the reason is this: if the author of an amendment gathers signatures to support his amendment, that means we do not need to discuss the amendment on the floor any more, because the signers have committed themselves to the amendment, be it good or not, and that is a sort of pressure on the other Members of the Assembly.

SR. LIM: Para una informacion.

EL PRESIDENTE: El incidence esta cerrado y la Mesa va a anunciar el resultado de la votacion.

SR. ROXAS: Señor Presidente, antes de que se anuncie el resultado de la votacion, pido que mi voto negativo se cambie por voto afirmativo.

EL PRESIDENTE: Hagase constar.

SR. ORENSE: Que se ejecute el acuerdo de la mayoria y que se proclame el resultado de la votacion. Ese es el asunto en orden.

EL PRESIDENTE: La Mesa anunciara el resultado de la votacion: afirmativos, 82; negativos, 56, ausentes, 63. Se declara aprobada la enmienda.

SR. ROXAS: Señor Presidente, pido la reconsideracion de esta enmienda, para que el asunto se deje sobre la Mesa hasta que se llame de nuevo.

MR. VINZONS: Can the Gentleman change his vote after the votes have been counted?

SR. ORENSE: Para un turno en contra de la mocion de reconsideracion.

LEVANTAMIENTO DE LA SESION

SR. CUENCO: Señor Presidente, pido que se levante la sesion.

EL PRESIDENTE: Habiendo llegado la hora reglamentaria, se levanta la sesion.

Eran las 7:33 p.m.

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