

COMMITTEE REPORT NO. 27

VOL. XI, September 17, 1934

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INFORME DE Comité NO. 27

Sometido por el Comité" sobre Nacionalizacion y Conservacion de Terrenos y Recursos Naturales.

Septiembre 17, 1934

Sr. Presidente:

Al rendir a Su Honorabilidad, para qué se transmita a la Convencion Constitucional, un informe de la labor del Comité sobre Nacionalizacion y Conservacion de los Terrenos y Recursos Naturales, seame permitido, a guisa de prologo, mencionar los nombres de los Delegados qué forman dicho Comité qué humildemente preside.

Miembros del Comité:

Del. Encarnacion (D.) Del. Aldeguer,

Ledesma, Ortiz (M.),

Hernaez, Artadi,

Chioco, Castillo,

Bonto, Prieto,

Cruz, (R.) Benito,

Cabarroguis, Mumar,

Cinco, Cea,

Grafilo, Pelayo,

Morales, Abaya,

Navarro, Lutero,

Gumban, Zialcita,

Carino, Fernandez,

Niere, Nepomuceno (J.),

Ribo, Melendres,

Gaerlan, Guarina,

Quirino (D.), Villarama

Ventura, Jose,

Confesor, Jumawan,

Rafols, Vinzons

Es un placer y un privilegio para mi poder certificar a Su Honorabilidad, el alto sentido de responsabilidad y la diligencia inteligente de todos y cada uno de los Miembros del Comité.

El Comité había recibido hasta el 14 de septiembre, endosados por la Secretaria de la Convención Constitucional, los proyectos de preceptos constitucionales de los siguientes Delegados:

Ruperto Kapunan..... P. P. C. No. 451

Florentine Chioco..... P. P. C. No. 60

Felix B. Bautista..... P. P. C. No. 64

Felix B. Bautista P. P. C. No. 65

Felix B. Bautista P. P. C. No. 66

Ambrosio A. Calleja y

Saturnine Benito P. P. C. No. 85

Cornelio T. Villareal P. P. C. No. 131

Manuel G. Fernandez P. P. C. No. 137

Felipe E. Jose P. P. C. No. 161

Felipe E. Jose P. P. C. No. 162

Felix B. Bautista P. P. C. No. 171

Ambrosio Calleja P. P. C. No. 198

Wenceslao Q. Vinzons P. P. C. No. 223

Florentino C. Chioco P. P. C. No. 299

Saturnino Benito, Toribio

P. Perez, Ambrosio A. Calleja,

Jose Bonto, Jose D.

Conejero, Francisco Munoz,

Braulio Leonardo y Jesus

B. Surban P. P. C. No. 332

Antonio Villarama P. P. C. No. 376

Antonio Guzman	P. P. C. No. 377
Castor P. Cruz	P. P. C. No. 402
Nicolas Buendia	P. P. C. No. 448
Miguel Cuaderno	P. P. C. No. 484
Manuel L. Sevilla	P. P. C. No. 486
Nicolas Buendia	P. P. C. No. 487
Artemio Abaya	P. P. C. No. 509
Numeriano Tanopo	P. P. C. No. 531
Sergio C. Jumawan	P. P. C. No. 563
Francisco Ventura	P. P. C. No. 571
Maximino G. Bueno	P. P. C. No. 588
Quiremon G. Alkuino	P. P. C. No. 603
Atilano S. Cinco	P. P. C. No. 615
Anastacio A. Mumar	P. P. C. No. 642
Jesus Y. Perez	P. P. C. No. 695
Zavalla y Sandoval	P. P. C. No. 750
Enrique Montilla	P. P. C. No. 786
Anastacio A. Mumar	P. P. C. No. 814
Sergio C. Jumawan	P. P. C. No. 839
Maximino R. Bueno	P. P. C. No. 870
Gaudencio R. Abordo	P. P. C. No. 877
Tomas Confessor	P. P. C. No. 885
Juan Navarro	
Severo Cea	

Resolution No. 45 de la Junta Municipal de San Rafael, Bulacan.

Queremos manifestar qué todos estos proyectos merecieron de parte del Comité una cuidadosa consideración. Suscritos por Delegados de las distintas regiones de Filipinas, el pensamiento enteramente nacionalista qué los distingue, refleja un deseo inequivoco por la nacionalizacion y conservation de nuestros terrenos y recursos naturales, qué vuestro Comité ha aceptado en su más araplia posibilidad dentro de las realidades ya creadas en nuestra vida como nacion.

Los preceptos qué vuestro Comité somete a la consideración de la Convencion Constitucional, reflejan igualmente una definitiva conviccion de Su Honorabilidad, si es correeta la interpretacion qué damos al discuraio brillante qué pronuncio ante los Rotarios. Expresa un pronunciarniento de subido sabor nacionalista el siguiente

parrafo de dicho discurso:

"Friendship, however, does not necessarily mean the relinquishment of the principle of self-preservation. It does not signify that we throw aside such tools as are legitimate and necessary to preserve for ourselves and our posterity the boon of freedom and the national heritage that our Constitution is supposed to guarantee and protect."

El 21 de agosto proximo pasado, celebramos la sesesión preliminar del Comité, en la cual se habia organizado el mismo y se delinea el programa del trabajo qué tendríamos qué hacer. El 26 y el 29 del mismo mes, tuvieron lugar dos sesiones de mutua informacion, de intercambio de puntos de vista y de adopcion de los puntos basicos del proyecto, cuyo esbozo final fue discutido y perfeccionado en la sesión plenaria del Comité, celebrada el 4 del mes qué corre, y cuya forma definitiva fue sancionada en la segunda y ultima sesión plenaria del Comité qué tuvo lugar el 14 de este raismo mes.

Vuestro Comité considero necesario asesorarse por los tecnicos del Departamento de Agricultura y del de Obras Publicas y solicito, por mi conducto, de los respectivos Secretarios, la formacion del correspondiente cuerpo de tecnicos. La siguiente comunicacion qué estfi firmada por el Hon. Victor Buencamino, quien entonces actuaba como Secretario Interino de Agriculture, demuestra la cordial cooperacion qué hemos recibido de los altos funcionarios del Gobierno.

August 25, 1934

Hon. Jose Locsin
Chairman, Committee on the Nationalization and
Conservation of Lands and Natural Resources
Constitutional Convention, Manila

Sir:

Pursuant to your request of August 24, 1934, concerning the formation of a committee in this Deparment for the purpose of assisting the Commitee on the Nationalization and Conservation of Lands and Natural Resources of the Constitutional Convention in its task of asking a careful study, preparation and submittal of such measures or Constitutional precepts as may be necessary for the nationalization and conservation of lands and natural resources, I have the honor to enclose herewith a copy of the special order issued by this Department creating the said committee. This order, however, is subject to change upon the arrival of Secretary Rodriguez from his inspection trip to the South.

In this connection, I would like to suggest that a hydraulic engineer be designated from the Bureau of Public Works as member of the Committee, and for this purpose I have this date written a letter to the Secretary of Public Works and Communications regarding the matter.

Very respectfully,

(Sgd.) V. BUENCAMINO
Acting Undersecretary

August 25, 1934

SPECIAL ORDER
NO. 53

SUBJECT: Department Committee to assist the Committee of the Constitutional Convention on the Nationalization and Conservation of Lands and Natural Resources.

- For the purpose of assisting the Committee of the Constitutional Convention on the Naturalization and Conservation of Lands and Natural Resources in its task of making a careful study, preparation and submittal of such resources of constitutional precepts as may be necessary for the nationalization and conservation of lands and natural resources, a committee in this Department is hereby created.

- This committee shall be composed of the following:

Mr. Florencio Tamesis, Assistant Director of Forestry, Chairman;

Mr. Jose S. Camus, Director of Plant Industry, Member;

Mr. Jose P. Dans, Assistant Director of Lands, Member;

Mr. Angel S. Arguelles, Assistant Director of Science, Member;

Mr. Leopoldo A. Faustino, Chief, Division of Mines, Member; and

Mr. Felix Franco, Assistant Chief, Sugar Cane Administration, Member.

- This committee shall submit a report of its activities to the Committee on Nationalization and Conservation of Lands and Natural Resources of the Constitutional Convention on or before August 31, 1934.

For and in the absence of the
Secretary:

V. BUENCAMINO

Acting Undersecretary

Es una satisfaccion reconocer publicamente los valiosos servicios que el cuerpo de tecnicos del Gobierno ha rendido a vuestro Comité. Los que lo integraban, asistieron con puntualidad en nuestras sesiones, no regatearon nada para facilitar los trabajos, aportaron cuanto sabian y sirvieron con desinterés que dieron idea del concepto que tienen de sus responsabilidades como filipinos ante el porvenir.

Ademas de los servicios del cuerpo de tecnicos del Gobierno; vuestro Comité quiso asesorarse de otro valor más de seguridad para sus trabajos: los servicios del Profesor Cinco de la Universidad de Filipinas, quien colaboro entusiastamente y con su sabiduria y patriotismo, asistiendo en las dos sesiones plenarias del Comité.

Adjuntamos en forma de apendice, valiosos papeles del cuerpo de tecnicos del Gobierno, que demuestran el cuidadoso proeeso de los acuerdos de vuestro Comité y la puntillosa consideration que dio a todos los asuntos que habia tratado.

(Fdo.) JOSE C. LOCSIN

Presidente

Comité sobre Nacionalizacion y

Conservacion de Terrenos y Recursos Naturales.

Al Hon. Presidente

Convencion Constitucional

FINAL DRAFT

AS APPROVED BY THE

COMMITTEE ON NATIONALIZATION OF LANDS

AND NATURAL RESOURCES IN SESSION
ON SEPTEMBER 14, 1934

EXPLANATORY NOTE
BASIC PRINCIPLES

The draft here presented embodies the following principles :

- That land, minerals, forests, and other natural resources constitute the exclusive heritage of the Filipino nation. They should, therefore, be preserved for those under the sovereign authority of that nation and for their posterity.
- That the existence of big landed estates is one of the causes of economic inequality and social unrest.
- That the multiplication of landowners by the sub-division of land into smaller holdings is conducive to social peace and individual contentment, and has been the policy adopted in most civilized countries after the World War.
- That the encouragement of ownership of small landholdings destroys that institution so deeply entrenched in many parts of the Philippines known as *caciquism*. It is preventive of absentee landlordship, an institution which springs directly from the establishment of big landed estates and has time and again served as an irritant to the actual toilers of the soil.

COMMENTS

To inculcate the above-mentioned principles, the following comments are hereby offered:

Land tenure has a social and political significance. One of the first acts of the government of the United States in the Philippines was to acquire what is known as the Friar Lands, or the large estates owned by religious corporations, in order to prevent the rise of serious conflict.

The Constitutional provisions presented by the Committee are not, therefore, without precedent in the organized legislation of the country. (See Act of Congress of July 1, 1902.)

In a society where landed estates prevail, sharp and well-defined class distinctions are noticeable. On the one hand, we have the wealthy landowners, who generally spend much time in cities; and on the other hand, we have the landless, who are quite often reduced to a condition of serfdom . This state of things obtained in most countries of the ancient world, especially in Rome, where the nobility built up *latifundis* in suitable regions. In modern times many of the social conflicts have been caused by similar inequalities in land tenure. England, during the last 20 years, has been prominent in the movement of breaking up large landed estates.

All over Europe there has been since the World War a steady trend towards the establishment of small land-holdings. In some countries, such as Germany, Yugoslavia, and Spain, this movement is directed by constitutional provisions; in others, it is provided for by statutory laws.

In South America, the existence of large *estancias* or *haciendas* may be considered the primary cause of the failure of the development of real democracy. The large proprietors constitute the bulk of the conservative party. Their conservatism, reinforced by a close relationship with the clerical group, has resulted in a strong combination which has dominated most of the history of South America. The landless constitute the poor and tenant group. They count for nothing in social and political movements because of their poverty and ignorance. (See Encyclopedia of Social Sciences, articles on land tenure, Vol. 9.)

International conflicts have often resulted from the existence of alien ownership of land and natural resources in a

weak country. Because of this danger, it is best that aliens should be restricted in the acquisition of land and other natural resources. The example is afforded by the case of Texas. This state was originally a province of Mexico. To secure its rapid settlement and development, the Mexican government offered free land to settlers in Texas. Americans responded more rapidly than Mexicans did, and soon they organized a revolt against Mexican rule, and then secured annexation of Texas to the United States. A new increase in alien landholdings in Mexico has brought about a desire to prevent a repetition of the Texas affair. Accordingly the Mexican Constitution of 1917 contains serious limitations on the rights of aliens to hold lands and mines in Mexico. The Filipinos should profit from this example.

Public ownership or control of a country's natural resources such as land, minerals, timbers, waters, and all natural sources of power is the aim of modern legislation. The German and Mexican constitutions place particular emphasis on this subject. In the United States, this movement for the control and conservation of natural resources has been going on since the administration of President Theodore Roosevelt. At present it has become so marked that millions of dollars are spent for the preservation of forest lands, and tireless efforts may be observed to conserve the mineral resources of the country. Water power and industries dependent on it have become major issues in politics.

On this subject President Franklin D. Roosevelt says:

"State-owned or Federal-owned power sites can and should properly be developed; private capital should be given the first opportunity to transmit and distribute the power on the basis of the best service and the lowest rates to give a reasonable profit only.

"The nation, through its Federal Government, has sovereignty over vast water power resources in many parts of the United States. Every foot of them is in progress of development. A few more are in the stage of blueprints and many others have not even been conveyed.

"We have undertaken the development of Boulder Dam on the Colorado River. The power will be sold by the United States government at a cost that will return the government investment with four percent interest in fifty years. States and municipalities were given a prior right to contract the power so generated. Long before that we undertook the development of the United States. We have spent millions on this project.

"There are two other great developments to be undertaken by the Federal government. One is the Columbia River in the Northwest. This vast water power can be of incalculable value to this whole section of the country. The other is the St. Lawrence River in the Northwest. Together with Muscle Soals in the Southwest, we shall forever have a national yardstick to prevent extortion against the public and to encourage the wider use of that servant of the people, electricity.

"A an important part of this policy, the natural hydro-electric power resources belonging to the people should remain forever in their possession. This policy is as radical as American liberty, as radical as the Constitution of the United States. Never shall the Federal government part with its sovereignty and control over its power resources while I am President of the United States."

The draft herewith presented follows the enlightened policy of President Roosevelt. While it reserves to the Nation full ownership over the natural resources and thus permits direct government control over them, it provides at the same time that capital, whether individual or corporate, may be allowed or develop and exploit them either as owners, grantors, lessees, or concessionaires. With respect to corporations or associations securing right over the natural resources, it is required that at least seventy-five percent of their capital should be owned by persons owing permanent allegiance to the sovereign authority over the Islands. This description naturally covers

both Filipino and American citizens during the period of the Philippine Commonwealth. The Committee is convinced that by allowing foreigners to own at most twenty-five percent of the capital of such corporations or associations, aliens needed in the technical or managerial staff may be induced to come by giving them an interest in the business even if the salary is modest. Leases and concessions in perpetuity are prevented by the limitation of the period to fifty years without the privilege of renewal. For obvious reasons, water rights are excluded, the limitation of grants with respect to them being beneficial to us.

The above explanation shows the need of providing carefully in our Constitution control of our lands and natural resources so that the evils of a landed aristocracy may be prevented and the danger of international conflict caused by alien landholdings may be averted when we shall be independent. Right now the beginnings of social unrest caused by large landed interests are already noticeable in various parts of these Islands. Corporate combinations are being established to control large domains. We should bear in mind that agrarian troubles have often resulted in general discontent and even civil war.

Article——NATURAL RESOURCES

Section 1. All agricultural, timber and mineral lands of the public domain, waters, minerals, coal, petroleum, and other natural minerals, oils, games, fish or other aquatic products, and other natural resources of the Philippine Islands, including the air and all forms of potential energy, belong to the nation and their disposition, exploitation, development, or utilization shall be limited to persons owing permanent allegiance to the sovereign authority of these Islands, or to corporations or associations seventy-five percent of the capital of which is owned by such persons, existing or subject of any right, grant, lease, or concession existing in respect thereto on the date of the adoption of this Constitution: Provided, however, that in case of water rights for irrigation, or water supply, or fisheries, or industrial uses other than the development of water power, for which beneficial use shall be the measure and the limit of the grant.

Section 2. No corporation or association may acquire, lease, or hold public agricultural lands in excess of five hundred hectares, nor may any individual acquire such land by purchase in excess of fifty hectares or by lease in excess of twenty hectares, which homestead shall be exempt from levy and execution: Provided, however, that lands adapted to grazing may be leased for that purpose to any individual, corporation, or association not in excess of two thousand hectares.

Section. 3. The government shall determine by law the size of private agricultural land which any individual, corporation, or association may hereafter acquire and hold; and it may expropriate large landed estates to be thereafter subdivided into small lots and conveyed at cost to individuals: Provided, however, that failure on the part of a landowner to work at least one-third of said land or any land for three consecutive years shall give the government the right to expropriate all or a fraction of the undeveloped portion at its option and be disposed of as herein provided; likewise, a municipality or province may expropriate any portion of a landed estate wherein a community of persons have their dwellings and may thereafter subdivide the same into small lots, conveying them at cost to the various actual householders therein but reserving portions necessary for streets, parks, cemeteries, and for other public needs.

Section 4. Save in cases of hereditary succession, no land of private ownership shall be transferred or assigned by the owner thereof except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippine Islands; and the government shall regulate the transfer or assignment of lands now owned by persons, corporations, or associations not qualified under the provisions of this Constitution to acquire or hold lands in the Philippine Islands.

Section 5. Aliens who have become citizens of the Philippine Islands by naturalization shall not have the rights

and privileges granted by this Constitution to natural born citizens over lands and other natural resources until after ten years from the date of their acquisition of Philippine citizenship; and no alien labor, except in the technical or managerial staff, shall be used in the exploitation of natural resources.

September 15, 1934

The Chairman
Committee on Nationalization of Lands and
Natural Resources
Constitutional Convention
Legislative Building, Manila

Sir:

Pursuant to Special Order No. 53, dated August 26, 1934, of the Secretary of Agriculture and Commerce, I have the honor to inform you that our committee, appointed under said order in cooperation with Mr. Filemon Rodriguez of the Department of Public Works and Communications and Prof. Vicente Since of the University of the Philippines, has gone over the various constitutional precepts on Natural Resources presented originally by your committee meetings. Our committee found that the basic propositions originally presented by us were taken into consideration in the final draft adopted by your committee in its session yesterday, September 14, 1934, copy of which is herewith enclosed.

The final draft has also the sanction of all the members of our committee who have examined all the basic points in our original draft presented with explanatory notes to your committee.

Very respectfully,

FLORENCIO TAMESIS
Assistant Director of Forestry
Chairman, Committee Appointed by the
Secretary of Agriculture and Commerce,
as per Special Order No. 53, dated
August 25, 1934.

Encls.

COMMITTEE REPORT NO. 28
Submitted by the Committee on Selection of Resident
Commissioner under the Commonwealth

Mr. President:

Your Committee composed of Delegates:

CANONoy, KINTANAR,

JOVEN, GRAFILO,

SANTOS, SEVILLA,

BELTRAN, EZPELETA and

ENRIQUEZ, PEREZ

BENITEZ,

to study the manner of selecting the Resident Commissioner to the United States during the government of the Commonwealth, has the honor to submit herewith a Constitutional Precept, which, through your office and other official channels, may be submitted for the consideration of the Constitutional Convention. It is hoped that after due deliberation the same may be adopted.

In drafting the Constitutional Precept attached hereto, your committee did not overlook certain important points relative to the selection of the Resident Commissioner to the United States during the government of the Commonwealth.

Respectfully submitted,

(Sgd.) FERMIN CARAM

Chairman, Committee on Selection of Resident Commissioner under the Commonwealth

The Honorable

The President of the

Constitutional Convention

C. P. No. 28

Submitted by Delegate Caram

EXPLANATORY NOTE

Under the Tydings-McDuffie Law, the Government of the Commonwealth of the Philippine Islands is to provide for the selection of a Resident Commissioner to the United States and shall fix his term of office.

Section 7 (5) of said law provides: —

"The Government of the Commonwealth of the Philippine Islands shall provide for the selection of a Resident Commissioner to the United States, and shall fix his term of office. He shall be the representative of the Government of the Commonwealth of the Philippine Islands and shall be entitled to official recognition as such by all departments upon presentation to the President of credentials signed by the Chief Executive of said government. He shall have a seat in the House of Representatives of the United States, with the right of debate but without the right of voting. His salary and expense shall be fixed and paid by the Government of the Philippine Islands. Until a Resident Commissioner is selected and qualified under this section, existing law governing the appointment of Resident Commissioner from the Philippine Islands shall continue in effect."

The wording of this provision would seem to imply that the selection of Resident Commissioner is to be provided for by the Government of the Commonwealth instituted pursuant to the Constitution and therefore need not be treated in the Constitution itself. Ordinarily such a question as the representation of a government in a foreign country is dealt with by the Legislature. The character of international relations and the methods by which they are promoted are so varied and 90 mutable, affected by changing circumstances, that the founders of States have always considered it wise and more prudent to leave it for future determination by the government rather than to bind its hands by rigid and inflexible constitutional precepts.

Such, indeed, would be the best course for the Philippine Commonwealth to take as regards its representatives in foreign countries. Not so as regards the Resident Commissioner of the Philippine Islands to the United States. This is an official who is not entirely an ambassador to a foreign country. He partakes of the character of a representative to a foreign country, but he will also enjoy privileges never accorded to foreign representatives of the highest category like his right to a seat in Congress. For this reason and because the relations between the United States and the Philippine Islands during the existence of the Commonwealth are supposedly not to be altered or changed, and in order to give to the Resident Commissioner the status of a Constitutional officer, thus elevating him to a rank not unlike that of the High Commissioner of the United States to the Philippine Islands, it would be both expedient and proper that the selection of the Resident Commissioner be provided for in the Constitution.

The present Resident Commissioners to the United States are elected by the Legislature. It would be pertinent to ask why the same procedure should not be followed. The reason is evident. The history of the office and the memorable debates which took place between the Philippine Commission and the Philippine Assembly regarding the number of representatives involved show that the present Resident Commissioners are principally delegates to the American Congress representing the people of the Philippine Islands, hence such representation would require that their selection be made either by the people directly or indirectly through their representatives. This is the *raison d'être* of the present manner of selecting our Resident Commissioner.

Under the Commonwealth, the Resident Commissioner to the United States will not represent the people, but, like a foreign ambassador, will represent "the Government of the Commonwealth of the Philippine Islands." For this reason it is logical that his selection be entrusted to the Chief Executive whose confidence he shall possess. The President, to be charged by the Constitution with the discharge of this duty, is entitled to have a free hand in the choice of his agents and representatives in other countries. Only in that manner can we secure a harmonious relationship between the head of the State and his spokesmen in foreign lands.

The Resident Commissioner requires the confidence of the Chief Executive. He should hold office at the pleasure of the appointing power, that is to say, while he holds and maintains his confidence.

In view of the foregoing considerations, the following Constitutional provision is proposed.

Respectfully submitted,

(Sgd.) FERMIN CARAM
Delegate, 2nd District, Iloilo

A CONSTITUTIONAL PRECEPT PROVIDING FOR THE
SELECTION OF THE RESIDENT COMMISSIONER
IN THE UNITED STATES DURING
THE COMMONWEALTH

The Resident Commissioner in the United States shall be appointed by the President of the Commonwealth with the advice and consent of the Philippine Senate, the compensation, expenses and qualifications of the Resident Commissioner shall hereafter be fixed by law.

No person shall be elected to the position of Resident Commissioner who is not a duly qualified elector of the Philippine Islands, native born thereof, at least thirty years of age, and able to speak and write in the English language.

The Resident Commissioner shall hold office during the term of the President of the Commonwealth, unless for justified reasons sooner removed by the same; Provided, however, that in case of vacancy in the position of Resident Commissioner caused by resignation or otherwise, the President or the Chief Executive of the Commonwealth of the Philippine Islands may appoint "ad interim" his successor until the next session of the Philippine Senate, which may confirm said appointment. The Resident Commissioner thus elected shall hold office only for the unexpired portion of the term wherein the vacancy occurred.

Respectfully submitted,

(Sgd.) FERMIN G. CARAM
Delegate, 2nd District, Iloilo

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