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APERTURA DE LA SESION

Se abre la sesión a las 4:10 p. m. ocupando el estrado interinamente el Delegado Hon. Mariana Cuenco, par designacion del Presidente.

EL PRESIDENTE INTERINO: Se abre la sesión.

DISPENSACION DE LA LECTURA DE LA
LISTA Y DEL ACTA

SR. GRAFILO: Señor Presidente.

EL PRESIDENTE INTERINO: Señor Delegado.

SR. GRAFILO: Pido qué se dispense la lectura de la lista y del acta, y qué esta se de por aprobada.

EL PRESIDENTE INTERINO: ¿Hay alguna objeción a la moción? (Silencio.) La Mesa no oye ninguna. Queda aprobada.

DESPACHO DE LOS ASUNTOS QUE
ESTAN SOBRE LA MESA DEL PRESIDENTE

EL PRESIDENTE INTERINO: Leanse los documentos recibidos.

EL SECRETARIO:

PETICION

Petition submitted by several residents of Maramag, Bukidnon, protesting the plan to change the present political status of the Province of Bukidnon. (P. No. 215.)

THE ACTING PRESIDENT: To the Committee on Sponsorship.

CONTINUACION DE LA DISCUSION DEL
PROYECTO DE CONSTITUCION

EL PRESIDENTE INTERINO: Está en orden la continuacion de la consideracion del proyecto de Constitucion.

SR. BUSLON: Hay una enmienda presentada por el Señor Perez y su servidor, de qué se suprima todo el Titulo 2.

EL PRESIDENTE JNTERINO: Está en orden dicha enmienda.

¿Hay algun Caballero qué desee hacer uso de la palabra en apoyo de la enmienda?

SR. ARUEGO: Pido la palabra.

EL PRESIDENTE INTERINO: Tiene la palabra Su Señoría.

DISCURSO DEL SR. ARUEGO

MR. ARUEGO: Mr. President and Gentlemen of the Convention: I presented my amendment for the suppression of the article on declaration of principles about three months ago after the Committee of Seven had submitted to the Convention its report. That amendment, therefore, was based, to a large extent, on the contents of the articles on declaration of principles. I see, however, that the SubCommittee of Seven has presented a revised article on declaration of principles. But notwithstanding these revised provisions on the declaration of principles, I think that the reasons which impelled me to present my amendment remain the same. I don't see, frankly speaking, any reason for any article on the declaration of principles in a Constitution. If we were trying to separate ourselves by force from the mother country, there may be a necessity for putting a declaration of principles wherein we enunciate certain philosophies of our people. But we are called upon to draft a Constitution for the Philippines, and. . .

MR. PEREZ (J.): I wish to direct a question to the Chair. Does the disapproval of this amendment mean that we cannot present any more amendment to suppress any section of this article?

THE ACTING PRESIDENT: The Gentleman may submit his amendment later.

MR. ARUEGO (Continuing.): I do not see any reason for the existence of a declaration of principles in our Constitution. I understand by principles to mean the philosophy of the Constitution. By the philosophy of the Constitution, I mean simply the thought upon which the Government provided for in the Constitution is based. If we examine the Constitution we have just approved, we find that it contains many philosophies. There is, for instance, the fact that the Government we are providing for is republican in character. We also find, as one of the principles of the Constitution, that the Government that we shall have is a unitary government. That is an amendment being presented by Delegate Francisco. We may also say as one of the principles of the Constitution the fact that our form of government is presidential or semi-parliamentary. We may likewise add that we are maintaining in our system of government the doctrine or principle of separation of powers.

Whether or not we make a summary of these principles of the Constitution, the principles are there. So long as we provide for a plan in accordance with definite philosophies, and I am sure that those so far approved are based on certain defined principles. . .

MR. GRAFILO: Do I understand that the Gentleman from Pangasinan does not object to having a provision in the Constitution which will express a philosophy of the unitary form of government?

MR. ARUEGO: As I said, whether or not we provide in the Constitution a statement to the effect that we are providing a government that is unitary, we have already established a unitary system of Government. Whether or not we include a statement to that effect, we have here a unitary form of government because all powers of government are fused in the Central Government.

MR. GRAFILO: Does that answer demonstrate a principle embodied in the Constitution?

MR. ARUEGO: Yes.

MR. GRAFILO: What about the principle which refers to renouncing war as a national policy?

MR. ARUEGO: I wish first to continue my speech on the declaration of principles.

MR. GRAFILO: Will the Gentleman object if we embody in some parts or provisions of the Constitution the enunciation of the principle?

MR. ARUEGO: My main point is that the enunciation of this principle in the Constitution is unnecessary because it is already there.

MR. GRAFILO: So the principle is indispensable, whether it is placed under a separate article or in some part of this Constitution?

MR. ARUEGO: It is indispensable, whether we place it in a separate article or in the latter part of the Constitution.

MR. GRAFILO: It being indispensable, would it not be proper to set aside this declaration of principles as we have now in the draft?

MR. ARUEGO: I believe that whether we set aside this declaration of principles or place it in a separate article, the inclusion of the article will add to this already voluminous draft.

MR. GRAFILO: One more question. In the course of the Gentleman's speech, he stated that the inclusion of this article is not necessary. Is that a fact?

MR. ARUEGO: I was speaking of the fact that the declaration of principles is more of a declaration of independence rather than a constitutional precept.

SR. ABRIGO: Para unas preguntas al orador.

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

MR. ARUEGO: Yes, sir.

SR. ABRIGO: Tengo entendido qué Su Señoría ha dicho qué estos principios contenidos en el "draft" no coinciden con los qué ya hemos aprobado.

MR. ARUEGO: I was underscoring the point that if we ever admit in the Constitution this article on the declaration of principles, we might as well make that article comprehensive and not merely confine it to other articles of the Constitution. I think we can. enumerate twenty or thirty principles in the Constitution.

SR. ABRIGO: ¿Quiere decir Su Señoría qué no debe la Constitucion contener una declaracion de principios?

MR. ARUEGO: Yes, I believe that the Constitution should not contain a declaration of principles.

SR. ABRIGO: ¿Cree Su Señoría qué esto qué aparece aqui puede ponerse en las Disposiciones Generales, o sea, qué es cuestión nada más de sitio?

MR. ARUEGO: I think some principles may be placed, and some need not. In other words. . .

SR. ABRIGO: Con respecto al Artículo tercero, ¿cree Su Señoría qué se podría muy bien poner lo qué en el aparece en las Disposiciones Generales?

MR. ARUEGO: Yes, we may have a place for that under the general provisions.

(Continuing.) Mr. President, I think this time we are agreed that we should limit the Constitution to a statement, to an important provision regarding the definition of the government and the setting up of the machinery of our Government. Therefore, we should strive, by all means, not to include in the Constitution anything that is not absolutely necessary in order to make the Constitution as brief as possible. As I have said, if we are going to include this declaration of principles, we might just as well include all the principles that we find in the Constitution.

With respect to the Constitutions of other states, I do not think we are a state at the present time; we will not be until after we are independent. From the point of view of international law, we may have other forms of government, but we are drafting a Constitution that will serve not only for the Commonwealth, but also for the Republic.

Article II provides that the Philippines renounces war as an instrument of national policy. The spirit behind the provision might be very good, but I doubt if it is proper to us to include that in the Philippine Constitution. The idea of renunciation of war was borrowed by the members of the committee from the Kellogg-Briand pact signed by 69 states of the world. I admit that it may also be found in the Spanish Constitution, but if you examine the Kellogg-Briand pact you will find that Spain is one of the signatory powers. Moreover, renunciation of war as an instrument of national policy is not exactly embodied in the provisions of the Kellogg-Briand Pact, or the Pact of Paris. I have here a text on the Kellogg-Briand Pact. Article II says: (Reading citation.)

Commentators on international law, although they consider important the first part of Article II, say that the article is not important because it is a complementary provision of the Kellogg-Briand Pact. Renunciation of war as an instrument of national policy is not as yet in perfect form. As a matter of fact, the United States is only at its experimental state and was even among the signatories with respect to the national policy in its relation with one another. Some say that "war" refers to defensive war; others say it is aggressive war. As a matter of fact, if we examine the document on this treaty, we will find that the signatory powers adhere to the Pact of Paris under varying conditions, and it is the opinion of international law experts that if a question arises as to the interpretation of the Kellogg-Briand Pact, the conditions under which a nation signed that pact will be taken into consideration. Now we are proposing to have in the national Constitution the statement that the Philippines renounces war as an instrument of national policy. Suppose in the future the country is involved in war, the same supporters may deem it wise to pass a law requiring all able-bodied citizens to join the war. As a result, the Government will be violating the provisions of the Constitution.

When we handled the Legislative Department, we authorized the National Assembly to declare war. As a matter of fact, in the third part. Section 3, there is a statement that the defense of the state is the prime duty of government, and that in the fulfillment of this duty all citizens may be required by law to render personal, military or civil citizen service. Even among the signatory powers of the Kellogg-Briand Pact, there is a difference of opinion as to whether "war" means offensive or aggressive war.

A Japanese philosopher, Mr. Nitobe, was asked to comment on the participation of Japan in the Manchurian question. The attention of the Japanese Government was invited, I think, by Secretary Stimson to the fact that Japan was violating the Pact of Paris in the Manchurian, imbroglio. Dr. Nitobe answered that, while Japan signed the pact to the effect that renunciation of war was an instrument of national policy in relation to one another, this was not a case of war being an instrument of national policy but of national defense. In the documents exchanged between Secretary Kellogg and Foreign Minister Briand of France, there was some question regarding the meaning of the word "war." The French Government claimed that the pact should be made to refer only to the aggressive party, but Sec. Kellogg said that the word "aggressive" should be deleted so that the pact would state only that the contracting powers would agree to renounce war as an instrument of national policy.

Mr. President and Gentlemen of the Convention, we see that even among the signatories of the Pact of Paris, there arose some questions regarding the compatibility between the obligations of nations adhering to the Pact of Paris and the obligations of the same as members of the League of Nations. According to the covenant of the League of Nations, when a certain member refuses to come to terms, the contradicting nation will have the power to use war to compel that member to observe a certain agreement. According to the covenant of the League, a state may be called upon in an aggressive war to punish an erring state, There is therefore an incompatibility between the Pact

of Paris and the Covenant of the League of Nations, to which two documents the adhering states are signatories. This question was brought before the League of Nations and it appointed a committee to make a study of the covenant so as to make it comply, more or less, with the provisions of the Pact of Paris. This committee, which has been working at it for some time, has not yet come to an agreement regarding the provisions of the Covenant of the League of Nations.

I have already pointed out, Mr. President, the fact that even among the adherents of the Pact of Paris, there is still disagreement regarding the wisdom of these provisions, particularly their incompatibility with the provisions of the covenant. Why should we then state in the Constitution at this stage, before we have to become an independent state, a provision that is still a point of controversy even among its adherents? There is a difference in having this provision in a treaty and in having it in a Constitution. If this were a treaty it should not be hard to decide whether we would adhere to the treaty or not. We could simply renounce the pact, particularly its provision about denunciation of war. But we cannot withdraw it once it is incorporated in the Constitution. If some day we find it necessary to repeal it, the amendatory provisions will be very expensive.

SR. ALEJANDRINO: Para algunas preguntas al orador. Señor Presidente.

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

SR. ARUEGO: Con mucho gusto.

SR. ALEJANDRINO: ¿Su objeto de usted es eliminar todo ese Artículo?

SR. ARUEGO: Sí, Señor.

SR. ALEJANDRINO: ¿De modo que para usted la defensa nacional es una cuestión que ni siquiera debe discutirse?

MR. ARUEGO: It is not that. We cannot provide for national defense according to the general provisions of the Constitution.

SR. ALEJANDRINO: Pero lo que usted persigue es la eliminacion de todo el Artículo.

MR. ARUEGO: No, because according to the Constitution the National Assembly has general legislative powers, and to make an act of the National Assembly not prohibited in the Constitution and to provide for national defense is not a prohibited power. The National Assembly is vested with general legislative powers; in other words, it can exercise anything so long as such is not prohibited in the Constitution. There being no prohibition on the creation of a strong national defense, the National Assembly has the right to provide for national defense.

SR. ALEJANDRINO: Entonces, según esa tesis, toda la Constitucion huelga. La Constitucion no es necesaria, porque no habiendo ninguna prohibicion, la Asamblea Nacional podria dictar.

MR. ARUEGO: On the contrary, this one has no use. Mr. President, I should like to speak further, but as my time is limited according to the rules of the Convention, I will now conclude I move that Article II or the Declaration of Principles be suppressed.

MR. GRAGEDA: Mr. President.

THE ACTING PRESIDENT: The Gentleman has the floor.

DISCURSO DEL SR. GRAGEDA

MR. GRAGEDA: Mr. President and Gentlemen of the Convention:

The amendment seeks to erase the declaration of principles contained in Article II of the draft. The proponent of the amendment wants to exclude the declaration of principles from the Constitution. However, the proponent admits that principles are indispensable in a Constitution. If principles are indispensable in a Constitution, then why not state those principles?

MR. ARUEGO: Will the Gentleman yield? When I stated that principles are necessary in a Constitution, I did not mean to say that the statement of these principles must be placed in a separate article. Whether such article is present or not, these principles are found in the provisions.

MR. GRAGEDA: But even if that is true, I do not see any harm in including the principles upon which the provisions of the Constitution itself are based. The only objection, Mr. President, is that it will make the Constitution very voluminous. But bulk should not stand in the way of things that may be subject of legislation. If we allow unimportant matters to be placed in the Constitution, there is absolutely no justification for eliminating important articles such as the declaration of general principles.

MR. PEREZ (P.): Mr. President, will the Gentleman yield?

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

MR. GRAGEDA: Willingly.

MR. PEREZ (J.): Does Section 1 of Article II speak accurately when it states that sovereignty resides in the people of the Philippines the moment we approve our Constitution?

MR. GRAGEDA: That is already a settled matter. We have settled in this Convention that the Constitution we are making is not only for the Philippine Commonwealth but also for the Philippine Republic. There is therefore absolutely no harm in placing this declaration of purposes because even if it may not be true during the period of transition, it will be true after that period.

MR. PEREZ (J.): Therefore, this statement is half true because it will not be true during the transition period, but only after.

MR. GRAGEDA: We must take into consideration that it will be subject to the ordinance which will be appended to the Constitution.

MR. PEREZ (J.): So, does the Gentleman believe that the Philippines during the period of transition will be a republican state?

MR. GRAGEDA: Yes. A republican state, subject to the ordinance.

MR. PEREZ (J.): Will this ordinance not affect the status of the Philippines as a state? The limitation contained in the ordinance will prevent the Philippines from exercising sovereignty and will thus make it subject to the control of other states.

MR. GRAGEDA: The Gentleman, I think, must know that this ordinance will be exercised only during the first ten years, the period of transition; after the period of transition, that ordinance will be taken out and the provision of Section 1 will remain as it is.

MR. PEREZ (J.): For ten years, this section will exercise no principle applicable to the Philippines. Is that right?

MR. GRAGEDA: Why, there is absolutely no danger in inserting it now because, after all, it will take effect.

MR. PEREZ (J.): Why does the Gentleman say that there is no danger in inserting a thing which is not a fact?

MR. GRAGEDA: Is it not a fact that we will become a state?

MR. PEREZ (J.): Does the Gentleman think that we become a state automatically the moment this Constitution is approved?

MR. GRAGEDA: After ten years, we will become a state.

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

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

SR. GRAGEDA: Sí, Señor.

SR. ENRIQUEZ: ¿No es verdad qué el Artículo primero de esta enunciacion de principios es necesario, pues con el nunca podremos implantar en Filipinas un Gobierno monarquico, porque entonces seria anticonstitucional ?

SR. GRAGEDA: Tiene razon Su Señoria.

SR. ENRIQUEZ: ¿Y si un Gobierno monarquico se implantase en Filipinas sus actos serian nulos?

SR. GRAGEDA: Estoy con Su Señoria en eso.

SR. ENRIQUEZ: ¿ No cree Su Señoria qué el Artículo segundo qué dice qué Filipinas renuncia a la guerra como instrumento de politica nacional, también es necesario, porque con el anunciamos a todos los paises civilizados del mundo qué Filipinas no adopta la guerra como instrumento de politica nacional?

SR. GRAGEDA: Estoy conforme.

SR. ENRIQUEZ: ¿Y con ello atraeremos a los comerciantes extranjeros a nuestro pais, porque veran qué en nuestra Constitucion encuentran las garantias necesarias al capital qué han de invertir en Filipinas?

SR. GRAGEDA: Tiene razon Su Señoria.

(Continuing.) We must take into consideration that the United States will still negotiate the neutrality of the Philippines. With this Section 2, all the nations will know our purpose towards them. With this principle enunciated under the declaration of principles, the United States win not have a hard time negotiating the neutrality of the Philippines.

MR. PEREZ (T.): Mr. President, will the Gentleman yield ?

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

MR. GRAGEDA: Willingly.

MR. PEREZ (T.): According to the principles, we renounce war as an instrument of policy. But a provision of the Constitution empowers the President to declare war. Which of the two does the Gentleman think should be given more effect?

MR. GRAGEDA: The power to declare war and Section 2 are not incompatible, because Section 2 only enunciates the policy, and we know that a policy is a general rule and we also know that every rule has an exception. We shall not be violating the Constitution if we go to war because we are forced to do so to defend ourselves from foreign aggression.

MR. PEREZ (T.): In other words, we shall wage only a defensive war.

MR. GRAGEDA: Yes.

MR. PEREZ (T.): Does not the Gentleman think that there is a contradiction in that in Section 2 we eliminated the part providing for the acquisition of other lands by the Philippines? What I mean is that there would not be any possibility for the Philippines to ever wage war to acquire new territory.

MR. GRAGEDA: We can acquire territories by other means.

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

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

SR. GRAGEDA: Sí, Señor.

SR. RAFOLS: El Artículo 2 dice lo siguiente: "Filipinas renuncia a la guerra" etcetera. Supongase qué durante la Mancomunidad estallara una guerra entre America y Japon o Rusia o China, y America llamase a filas a los filipinos para ir a la guerra, ¿qué vamos a decirle? ¿Vamos a decirle: "Espere un momento, porque hemos renunciado a la guerra"?

MR. GRAGEDA: During the transition period, we shall still be under the United States subject to the call of the United States.

SR. RAFOLS: ¿Quiere decir entonces Su Señoría qué durante el Gobierno de la Mancomunidad, este Artículo 2 sera letra muerta?

SR. GRAGEDA: Sí, Señor. Al menos durante el periodo de transicion.

SR. RAFOLS: De modo qué durante el periodo de transicion. seremos partidarios de la guerra, porque no renunciamos a ella.

SR. GRAGEDA: La cuestión es qué durante el periodo de transicion no seremos libres todavía, porque estaremos sujetos aún a los Estados Unidos, y en ese caso no seria una politica nuestra sino una politica de los Estados Unidos.

SR. RAFOLS: ¿Qué sera entonces de este Artículo 2?

SR. GRAGEDA: Parece qué ya he contestado a eso.

SR. RAFOLS: ¿No seriamos inconsecuentes si America nos llamara para la guerra y le dijéramos qué no estamos conformes?

SR. GRAGEDA: No, porque durante el periodo de transicion estaremos sujetos aún a la autoridad de los Estados Unidos.

SR. RAFOLS: Nuestra Constitucion, desde el momento en qué se apmebe, estara en vigor. ¿No es asi?

SR. GRAGEDA: Pero sujeta a ciertas ordenanzas.

SR. RAFOLS: Entonces, ¿por qué no decimos: Filipinas es un Estado independiente sujeto a las ordenanzas? No queremos la guerra, sujeta a las ordenanzas, y asi en cada declaration, habria qué poner la siguiente salvedad: "sujeto a las ordenanzas."

SR. GRAGEDA: La pregunta puede dirigirla Su Señoría al Comité de Estilo.

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

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

MR. GRAGEDA: Willingly.

MR. SALUMBIDES: Does the Gentleman agree with me that the Constitution is a collection of principles and is not ordinary legislation?

MR. GRAGEDA: Yes, it is a collection of principles.

MR. SALUMBIDES: In other words, every part of the Constitution is a principle.

MR. GRAGEDA: Yes.

MR. SALUMBIDES: Now, why make a separate article of this nature when everything in the Constitution is a principle?

MR. GRAGEDA: Well, because there are some provisions not covered by the Constitution.

MR. SALUMBIDES: By providing a separate article for principles, does not that give the idea that only those are principles and the others are not?

MR. GRAGEDA: I do not think so.

MR. SALUMBIDES: Does not the Gentleman think that it is misleading? Does he not think that it is better to incorporate this provision with some other provision, such as the General Provisions?

MR. GRAGEDA: It is a question of style.

MR. SALUMBIDES: Is it not better to put all these provisions in some other article? I mean let us suppress this Article and put the principles under it where they belong.

MR. GRAGEDA: The place is immaterial. After all, we are agreed that they should be in the Constitution.

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

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

MR. GRAGEDA: Willingly.

MR. VILLAREAL: I think that the Gentleman is sustaining that Section 4 should not be eliminated because the amendment is for the suppression entirely of the article. Section 4 implies that it is a duty and at the same time a right. A fellow may have a duty to another, but it does not mean he has no right to him. If I have a duty to a person, he has the right to extricate me from that duty. If a person has an obligation to give me P1,000, I have the right to demand P1,000 from him and he has the duty and obligation to deliver me P1,000.

MR. GRAGEDA: May I ask whether the Gentleman is in favor of the principle enunciated in Section 4?

MR. VILLAREAL: Section 4 does not enunciate anything.

MR. GRAGEDA: What does it enunciate?

MR. VILLAREAL: It does not enunciate anything whatsoever. How can it be a duty and at the same time a right? Let us suppress it.

MR. PEREZ (T.): Mr. President, I wish to know whether the Gentleman from Bohol (Mr. Buslon) is for the

elimination of the whole article or only a few of its provisions.

MR. BUSLON: Mr. President, there is an amendment filed by me and Mr. Perez (J.) to suppress the entire chapter on the declaration of principles.

(Continuing.) Gentlemen of the Convention, one of the most painful experiences I have had in this Convention is to speak against the Committee to which I belong, the Committee on the Declaration of Principles, specifically to be in a conflict in opinion with the venerable chairman of that Committee, the exPresident of the University of the Philippines, Mr. Rafael Pahlia.

MR. MARAMARA: Mr. President, as a member of the committee, did the Gentleman record his dissenting opinion?

MR. BUSLON: Yes. Not when this was approved in the Subcommittee but when this Convention began to discuss the entire body of the Constitution.

(Continuing.) I am not against any principle enunciated in the Constitution. In fact, as has been already said, everything in the Constitution is a principle. I do object only to having it restated here in a separate chapter, because I think that is unnecessary, superfluous and dangerous. When we began discussing the body of the Constitution, Article II should have followed Article I, but we had already finished Article X of the draft. Why? Because we did not know what principles to embody in the Constitution. There is a proof that this is unnecessary.

Now, is it not true that our action in framing the body of the Constitution should be guided by principles? Nobody can deny that when we drafted the body of the Constitution, we were not guided by the principles enunciated in Article 2 of the draft.

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

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

MR. BUSLON. Willingly.

MR. CUADERNO: Would the Gentleman respect an unprincipled man?

MR. BUSLON: I do not mean to say that there is anybody here who is unprincipled.

MR. CUADERNO: I am only driving at another point. Would the Gentleman respect a man of principles?

MR. BUSLON: The Filipino people have principles.

MR. CUADERNO: Then what is the Gentleman's objection to including the statement of principles?

MR. BUSLON: Because the principles are already embodied in the Constitution. Every line in the Constitution contains a principle for which the Filipino nation stands.

MR. CUADERNO: But does the Gentleman believe that the principles stated in the draft are already embodied in the Constitution?

MR. BUSLON: There are some which I think are not. But what is the use of stating things that are not embodied in the Constitution?

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

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

MR. BUSLON: Willingly.

MR. INTING: Do I understand from the Gentleman that because the principles of our Government are embodied in the different provisions of the draft we approved, there is no necessity for approving this Declaration of Principles?

MR. BUSLON: Exactly.

MR. INTING: As a member of the Committee on Principles, the Gentleman believes that there was no need of submitting the report because it was unnecessary. Is that right?

MR. BUSLON: Before we submitted the report, I had the impression that our report would be denied.

If we retain this in the Constitution, there is the danger that it will get different kinds of interpretations. For instance, Section 2 says we will not resort to war as a part of our national policy, but Section 3 states that the defense of the state is the prime duty of the individual. Now, defense of the state forces us to war. In which case, we violate our own principle.

Again Section 3 deals with the promotion of social justice, etc. Now can anybody point in the Constitution a provision which develops from this enunciation of principle? Also, there is the provision to nationalize staple food products. There has been a strong opposition to it, despite the fact that such nationalization will promote social justice to enhance the well being, the economic security, and prosperity of the people. There is likewise a sentiment here to nationalize labor, transportation, and so forth.

MANY DELEGATES: No, no, no.

MR. BUSLON (Continuing.): I am only expressing my own opinion. This is a free country and everybody can express his own opinion.

I believe that in this article, we are treading on dangerous ground. I am afraid that this article will lead to the disapproval of the Constitution. We are not yet a republican state. We have taken the privilege of framing our Constitution on the benevolence of the United States. If the United States now withdraws that privilege, we can not say anything.

I am now ready to answer the Gentleman from Camarines Norte. Delesarte Vinzons.

MR. VINZONS: The Gentleman said that it is unnecessary to include these principles because they are already included in the body of the draft.

MR. BUSLON: Some of them, not necessarily all.

MR. VINZONS: May I ask, for instance, whether Section 2, which provides that the Philippines renounces war and so forth, is included in any part of the draft approved by this Convention?

MR. BUSLON: I do not remember.

MR. VINZONS: Section 3 states that the defense of the state is the prime duty of the Government. Has that ever been included?

MR. BUSLON: There is no provision to that effect.

MR. VINZONS: Section 4 talks of the rearing of the youth and Section 5 talks of the promotion of social justice. Will the Gentleman inform us if any of these things appear in the draft of the Constitution?

MR. BUSLON: As far as my memory goes, no. As I said in the beginning, some are embodied and others not. If they are embodied, there is no use improving them; if not, there is no use stating them again in the Constitution. I

repeat: some of these principles enunciated are already included in the Constitution. I see no reason for restating them. I also said that some of them are not included and that there is no use stating them and developing them as part of the Constitution.

EL PRESIDENTE INTERINO: Ha expirado el tiempo del orador. Tiene la palabra el Delegado por Manila.

DISCURSO DEL SR. PALMA

SR. PALMA: Señor Presidente, Caballeros de la Convencion: No es el amor a una criatura que ha sido obra nuestra el que me mueve en este momento a defender esta parte de la Constitucion, puesto que el report del Comité que inmerecidamente he presidido es algo diferente del que ahora se presenta. Pero quiero, sin embargo, llamar la atencion de la Asamblea hacia la necesidad no solamente de ciertos principios teoricos, sino también principios de politica fundamental de estado, a los que un nuevo Estado debe adherirse para que el gobierno no sea un capricho de los hombres. Es, desde luego, dificil ponerse de acuerdo sobre ciertos principios. Nada hay más dudoso que los principios; sin embargo, un pueblo con principios merece más respeto que uno sin ellos. Un hombre que no tenga principios que seguir en su conducta, sino el capricho, no merece respeto de nadie. Pero es en el momento que comienza la vida de una nacion, cuando debe declarar cuales son los principios en que cree para guia y razon de su conducta. ¿No son acaso los inmortales principios de igualdad, fraternidad y solidaridad que proclamo Francia los que cambiaron el regimen antiguo y establecieron otro nuevo para toda la humanidad? Este regimen que ahora disfrutamos no habia antes que la Republica Francesa declarara esos principios inmortales que hasta ahora guian a la humanidad en su marcha hacia la perfeccion. Los Estados Unidos han proclamado también que los pueblos tienen el derecho de dirigir y de gobernar sus destines, y gracias a ese principio, el pueblo filipino se ha levantado en todo tiempo proclamando la aplicacion de ese principio al pueblo de las Islas Filipinas. Es que los principios, por más que no quieran respetarlos, son los que todavía gobiernan al mundo. No es la espada la que creo las nacionalidades y los pueblos. No es por el valor y por las proezas militares que el mundo ha caminado rapidamente hacia su perfeccion. Es por el valor de los principios que los pueblos madres han seguido, que los pueblos guias han proclamado para toda la humanidad, y yo digo que si una Constitucion no se redujera más que a unos cuantos principios, todavía esa Constitucion tendria un gran valor. Se burlan mucho algunos de los Companeros, de la expresion de estos principios, como, por ejemplo, de que el Estado es republicano, y dicen que no puede ser Estado republicano el Gobierno de Filipinas. El derecho internacional reconoce Estados completamente soberanos y Estados semisoberanos. Esta distincion ha sido siempre reconocida en la historia. Cuando decimos, aún dentro de nuestra situacion semisoberana, que el Estado Filipino es republicano, no queremos decir nada más sino que las practicas de la monarquia, las institucionea y los principios monarquicos estaran condenados en este pais. No queremos decir nada más que eso. Estos principios no tienen una importancia solamente teorica, sino también practica, porque serviran de regla a los tribunales para la interpretation de todos los preceptos de esta Constitution. Cuando los tribunales tengan alguna duda sobre el sentido de algunas de las clausulas de esta Constitution, a esos principios es a donde tendran que acudir para aclarar e interpretar esas disposiciones y clausulas, de modo que, después de todo, estos principios, aunque son tan evidentes en si mismos que no parece ser sino que no hay necesidad de decirlos o de expresarlos en la Constitution, tienen su importancia practica y mucha, porque son la base de esta Constitution de donde vendran las reglas para su interpretacion. Ahora bien, el orador que me ha precedido en el uso de la palabra se ha ocupado mucho de la clausula sobre la guerra, alegando que no es necesaria, pues es uno de los principios de nuestro siglo y de nuestra edad, y es un principio, que esta viniendo, si no que ha venido ya. Todas las naciones, 54 naciones, han firmado un tratado en el que remmcian inclusive a la guerra, de modo que no expresamos en realidad un nuevo principio; es el principio que se va estableciendo y el pueblo filipino no hara más que consignar en su Constitution, cimentar y establecer de firme ese principio ya reconocido en el mundo civilizado. ¿Por supuesto,

qué no condenamos más que la guerra ofensiva no designada en nuestra Constitution, o sea, qué el Gobierno filipino renuncia a la guerra como politica nacional. Queremos expresar qué condenamos la guerra, qué no recurriremos en cualquier incidente de nuestra historia a la guerra como medio de politica nacional dino, por el contrario, renunciamos a ella desde este momento; pero, cuando es una guerra defensiva, cuando para su defensa el Estado se ve compelido a tomar las armas. no podriamos renunciar a eso. En un easo de agresion, tenemos qué defendernos y es deber fundamental del Estado el defenders. El Estado exists y tiene derecho a existir por su propia soberania y tiene el deber de defender su soberania. No hay incompatibilidad entre esos dos principios: la guerra en un caso ofensivo y la gnerra en otro caso defensivo, y la defensa nacional en todas partes sc considera ya como un deber, no ya como un derecho. sino como un deber del Estado. Asi como un hombre tiene derecho a la iegitima defensa de su cuerpo y de sus bienes, asi los pueblos, en casos de necesidad, tienen derecho y deber de defenderse a si mismos, de modo qué no expresamos más qué principios claros. Probablemente, el Titulo pcdria completarse incluyendo todos estos principios qué estan esparcidos en el cuerpo de la Constitution y reconocidos en el mundo civilizado. Podemos completar, podemos aclarar una parte del lenguaje de este Titulo, pero como no se trata en estos mementos más qué de resolver si hay necesidad o no de insertar en la Constitution algo como una declaracion de nuestros prineipios, algo como una regla de conducts del Estado filipino qué va a nacer y qué no este sujeta a las eventualidades de nuestra propia politica interior, algo a qué nosotros nos adherimcs como hombres y como nation, digo qué eso es una necesidad, qué es conveniente formularla en la Constitution, porque si hay algún momento en nuestra historia en qué el mundo debe saber cuales son los prineipios de este nuevo Estado qué esta viniendo a la vida, es precisamente este momento. No creo qué esta es la Constitution qué ha de contener completamente el gemio de nuestra raza, según expresion del Presidente de esta Asamblea. porque la Constitution la escribiremos cuando no tengamos reglas a qué sujetarnos; pero la expresion de los prineipios en qué cree el pueblo filipino, debe hacerse en estos mementos para qué el mundo sepa si este pueblo ha de merecer el respeto y la estimation de todos. Este es el momento en qué debemos declarar los prineipios en qué nosotros creemos y esta es la razon porque yo creo qué debemos consignar algo como una Declaracion de Prineipios del pueblo filipino para qué el mundo nos conozca, nos respete y nos reverencie si lo merecemos.

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

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

SR. PALMA: Con mucho gusto, Señor Presidente.

MR. VILLAREAL: Does the Gentleman mean to tell us that the other provisions of the Constitution not embodied in Article II are not principles of the Filipino people?

MR. PALMA: My idea of the Constitution is that some principles are precepts or provisions which contain a certain mandate, but that the other principles are to be embodied in a separate chapter. Some refer to regulations, others are precepts which should be separated from the principle of precepts or rules.

MR. VILLAREAL: Then the Gentleman means to say that the principles embodied in Article II are the articles that should be announced to the world, and that the other principles should not?

MR. PALMA: As I understand it, the main principle of Article II of the Constitution is composed of rules and regulations of our government. The principles are included in these precepts. I think that would be a better arrangement.

EL PRESIDENTE INTERINO: El tiempo del orador ha expirado ya y a menos qué se le conceda más tiempo, no podria continuar hablando.

MR. INTING: Mr. President, I ask the permission of the Chair to extend the time of the Gentleman from Manila

by five more minutes.

EL PRESIDENTE INTERINO: ¿Hay objeción a qué se extienda el tiempo del orador por cinco minutos más? (Silencio.) Se le conceden cinco minutos más.

MR. INTING: Do we understand from the Gentleman from Manila that Philippine renunciation of war as an instrument of national policy means only offensive war?

MR. PALMA: Yes, the Philippines renounces war as an instrument of national policy. That is offensive war. The provision on defensive war is in the third paragraph.

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

THE ACTING PRESIDENT: The Gentleman may yield if he pleases.

MR. PALMA: Yes.

MR. VENTURA: What should the Philippines do in case a country like Japan committed atrocities against her citizens and then would not offer any satisfactory explanation nor pay compensation for damages to Filipino citizens or to properties of the Philippines? Should we not as a matter of duty wage war against Japan?

MR. PALMA: The natural procedure would be to settle the matter in a diplomatic way first. In case of aggression we are justified in waging a defensive war.

MR. VENTURA: Suppose we did not come to an amicable settlement of the matter. Would we have to wage war?

MR. PALMA: We have renounced aggressive war, so we are not in a position to wage war.

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

THE ACTING PRESIDENT: The Gentleman may yield if he pleases.

MR. PALMA: Yes.

MR. SEVILLA: In case of contradiction between the declaration of principles and a constitutional precept, which shall prevail?

MR. PALMA: The interpretation of the courts will naturally have some basis in the declaration of principles for their decisions. There should not be any incompatibility between the precept of the Constitution and the declaration of principles. If there is any apparent conflict, then the declaration of principles — which is the philosophy of the whole Constitution — will prevail.

MR. SEVILLA: I understand that the declaration of principles is superior to any constitutional precept. In case of any ambiguity between the two, what means should be resorted to for interpretation?

MR. PALMA: I interpret the principles to be the means for interpretation.

SR. ENRIQUEZ: Señor Presidente, desearia dirigir algunas preguntas aclaratorias al orador, si el me las permite.

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

SR. PALMA: Sí, Señor.

SR. ENRIQUEZ: Desearia qué el orador me aclare ciertas dudas qué tengo en relacion con la frase empleada por Su Señoría "offensive war". ¿Quiere decir qué nosotros, come nacion, no vamos a ser los agresores o no vamos a ser la nacion qué inicie la guerra?

SR. PALMA: Esa es la idea, qué no iniciaremos la agresion en ningun easo de guerra Solamente nos defenderemos.

SR. ENRIQUEZ: ¿Es acaso diferente la guerra agresiva?

SR. PALMA: La guerra ofensiva.

SR. ENRIQUEZ: Ofensiva y agresiva. ¿son sinonimas?

SR. PALMA: El qué ofende agrede.

SR. ENRIQUEZ: Otra duda. Segun recuerdo en este momento, parece qué heraos aprobado, en el Titulo correspondiente a las atribuciones del Poder Ejecutivo, qué el Jefe Ejecutivo de la nacion puede declarar la guerra con la aprobacion de la Asamblea o de algun comité. Esa guerra qué con la aprobacion de la Asamblea puede declarar el Jefe Ejecutivo de la nacion ¿debe entenderse qué es una guerra ofensiva?

SR. PALMA: Una guerra defensiva.

SR. ORENSE: Señor Presidente, para algunas preguntas al orador, si me lo permite.

EL PRESIDENTE INTERINO: ¿Accede a ello el orador?

SR. PALMA: Sí, Señor.

SR. ORENSE: Conste ante todo qué soy uno de los admiradores del Delegado qué esta en el uso de la palabra. He oido de Su Señoria qué estos principios vendrian a constituir ccomo guia o fuente de interpretacion para nuestros tribunales de justicia.

SR. PALMA: En la practica, pero tiene importancia teorica.

SR. ORENSE: Siendo asi, voy a referirme al Artículo 5 qué dice: "Es deber del Estádo favorecer la justicia social para procurar el bienestar y la seguridad economica de todo el pueblo". Supongamcs qué sea necesario enmendar la actual ley dictada por nuestra Legislatura, qué regula las relaciones entre el capital y el trabajo, como también las horas de trabajo, bien en lo qué respecta al capital o bien en lo qué respecta al obrero, porque ahora, practicamente, tiene más horas de trabajo qué las limitadas por la Legislature, ¿no cree Su Señoria qué esa ley actual podria ser cuestionada por anticonstitucional, por contraria al principio enunciado en este Artículo 5?

SR. PALMA: Eso seria cuestión de interpretacion. No estoy en posicion o mejor dieho, no conozo completamente la ley a qué se refiere Su Señoria; si la conociera podria decir cual es mi opinion sobre la misma. De modo qué digo solamente qué seria anticonstitucional cualquiera ley qué se opusiera a los principios de la Constitucion o a sus reglas. Pero eso es una cuestión de interpretacion por parte de nuestros tribunales de justicia. Lo qué no puedo decir es si una ley determinada, en este caso, la qué cita Su Señoria puede ser o no anticonstitucional.

SR. ORENSE: Siendo asi, ¿no cree Su Señoria qué la enunciacion de estos principios significaria, o significa la apertura de todas las puertas a nuestros mejores constitucionalistas para discutir la legalidad o validez de cualquiera ley qué se dicte por la Legislature?

SR. PALMA: No hay nada de puertas qué se abren; es simplemente qué la Constitucion contiene siempre o principios o politica fundamental del Estádo; toda ley qué se dicte qué contradiga las reglas y principios de la Constitucion es materia de interpretacion por parte de los tribunales. Les toca a estos decidir si es anticonstitucional o no esa ley. Aunque usted quite todo eso, siempre se podran presentar cuestiones de anticonstitucionalidad, De modo qué eso no abre más puertas; más bien cierra, porque aclara los principios de nuestra Constitucion.

SR. ORENSE: ¿No cree Su Señoría qué los principios aquí enunciados, en este Título II, son principios de carácter universal y generalmente aceptados en el mundo?

SR. PALMA: Pudiera ser; yo creo qué si, y, precisamente, por eso debemos decir si nos adherimos a esos principios; esa es la necesidad.

SR. ORENSE: ¿Sí ese es el caso, qué son principios universales y comunmente aceptados por todo el mundo, siendo nosotros parte de ese mundo, ¿cree Su Señoría qué hay aún absoluta necesidad de insertar esos principios, si ya son comunmente conocidos?

SR. PALMA: Creo qué si, porque los principios universales son muchísimos y aquí declaramos cuales son los principios específicos a qué nos adherimos. Sí no fueran más que esos los principios universales o universalmente seguidos, estaria bien; pero aquí se declara qué principios específicos aceptamos para nuestro Gobierno.

SR. ORENSE: Para Una pregunta más. Me he concretado a los principios contenidos en los cinco Artículos. Sí son universales, ¿qué necesidad tenemos de incluirlos?

SR. PALMA: Los hacemos nuestros.

MR. BUENO: In case of war wherein the Philippines is a party who will decide whether that is an aggressive or a defensive war?

SR. PALMA: El Gobierno.

MR. BUENO: Which government?

SR. PALMA: El nuestro. En caso de agresion, si viere, por jemplo, qué es inminente una agresion, la guerra qué vamos a declarar seria de defensa. Pero, si queremos, por ejemplo, tomar Borneo, por propia iniciativa, entonces seria eso guerra ofensiva contra Borneo.

MR. BUENO: I should like to remind the Gentleman from Manila of a certain incident which is not very remote. In 1914, the international situation was to the effect that Germany was the aggressor country; but no authority on military history in Germany has admitted that the Germans were the aggressors in the World War, yet every one knows that the German people were such. Now, is it not a fact that the Kaiser manipulated the international situation at the time so as to place the German people on the defensive when they were actually the aggressors?

SR. PALMA: Me parece qué si, Entonces, bajo el principio de nuestra Constitucion la guerra ofensiva estaria renuneiada: es decir, no agrediremos a ninguna nacion; nos defenderemos solamente. Pero, si a pesar de estar a la defensiva, nos dicen qué estamos a la ofensiva, eso seria cuestión de opinion.

MR. BUENO: But that would be a violation of the provision of the Constitution.

MR. GUZMAN, J.: I understand that there is one more "turno." I would like to make use of it.

MR. PEREZ, T.: Inasmuch as the question has been amply discussed, I would like to ask for unanimous consent to extend my remarks in the Record.

THE ACTING PRESIDENT: Qué se inserte. Delegate Guzman has the floor.

DISCURSO DEL SR. GUZMAN, (J.)

MR. GUZMAN, J.: Mr. President and Gentlemen of the Convention: I regret to say that I cannot agree to the brilliant exposition of the expresident of the University of the Philippines. I seem to understand from him that by not putting in our Constitution his article on the Declaration of Principles, no principle at all is incorporated in our Constitution.

Article II is really unnecessary and superfluous because its provisions are mere repetitions of the other provisions in our Constitution. I agree that these principles are really fundamental, but they are already well taken care of in the other provisions of the Constitution. And if the Chairman of the Committee on Declaration of Principles will admit that the preamble is the very face of our Constitution and that everything embodied in it is really fundamental, then Article II becomes a repetition of our preamble.

A good author in order to write the story of a good article will naturally make an outline of what he is going to write. In my humble way of thinking, this article is just an outline of this Constitution we are drafting. So, if the article is really true, it is necessary to include in the Constitution an outline on which to base our right as Delegates of this Convention.

In conclusion, I ask all to understand the meaning and disposition of this article. It is only an outline of the Constitution which we are drafting, hence not necessary to incorporate in this Constitution.

MR. SALUMBIDES: Has the Gentleman read the Constitution of the United States?

MR. GUZMAN, J.: Yes.

MR. SALUMBIDES: Does it contain any article on declaration of principles?

MR. GUZMAN, J.: No, it does not.

MR. SALUMBIDES: And is it not a fact that the best constitution in the world is the United States Constitution?

MR. GUZMAN, J.: No.

MR. ENRIQUEZ: Has the Gentleman read the news from the States that this declaration of principles has been eulogized by all American newspapers because of that principle to renounce war?

MR. GUZMAN, J.: I do not agree with the Gentleman when he says that the article has attracted the attention of the whole world; rather, the other provisions of the Constitution were the important things considered by the other nations, not only Article II under discussion.

MR. ENRIQUEZ: Has not the Gentleman read also that because of the declaration of principles in Article II, the statements in the United States and all the newspapers abroad said unanimously that our Constitution is far better than the Irish constitution, which is one of the best constitutions in the world?

MR. GUZMAN, J.: Can the Gentleman show me the newspaper that speaks of Article II of the Constitution?

MR. ENRIQUEZ. Yes.

RECHAZAMIENTO DE LA ENMIENDA

EL PRESIDENTE INTERINO: ¿Está dispuesta la Asamblea a votar sobre la enmienda? (Varios Detegados: Sí.)

Los qué estén ccnformes con la enmienda, qué digan si. (Varios Delegados: Sí.) Los qué no lo estén. qué digan no. (Varios Delegados: No.) (Varias voces: Division.)

Los qué estén conformes con la enmienda qué se pongan de pie. (El Secretario cuenta cuantos se han puesto de pie) Los qué no estén conformes qué se nongan también de pie. (Muchos Delegados se ponen de pie).

Por una gran mayoría queda rechazada la enmienda.

SR. ESCAREAL: Señor Presidents, pido qué se levante la sesión.

SR. VENTURA: Señor Presidente, para una enmienda.

SR. CONEJERO: Señor Presidente, el Delegado por Ilocos Norte ha suscitado una cuestión privilegiada.

EL PRESIDENTE INTERINO: No ha llegado todavía la hora. Lease la enmienda del Delegado por Iloilo, Señor Confesor.

EL SECRETARIO:

Entre las líneas 1 y 2 del Título II, insertese lo siguiente:

"SECTION 1. — The Filipino people hereby declare themselves ready for immediate, complete and absolute independence and are in a position to assume now the obligations and responsibilities of a sovereign state."

SR. CONFESOR: No hemos podido oír la enmienda.

DISCURSO DEL SR. CONFESOR

MR. CONFESOR: Mr. President, I will read my proposed, amendment: "SECTION 1. — The Filipino people hereby declare themselves ready for immediate, complete and absolute independence, and are in a position to assume now the obligations and responsibilities of a sovereign State."

MR. PELAYO: Mr. President, for a privileged question. I should like to know if that is a constitutional principle.

THE ACTING PRESIDENT: That is not a privileged question. The speaker may proceed.

SR. PEREZ (T.): Pido qué la enmienda se vote sin debate.

EL PRESIDENTE INTERINO: Puede proseguir el Delegado por Iloilo.

MR. CONFESOR: Mr. President, during the last few weeks, various statements were made by the official representatives of the Filipino people in the Congress of the United States, more or less to the effect that the Filipino people now are not in a position, nor are they ready, to assume the obligations and responsibilities of a sovereign state.

MR. PEREZ (T.): Mr. President, I move that the motion be laid on the table.

MR. CONFESOR: I have the floor, Mr. President.

EL PRESIDENTE INTERINO: El Delegado por Iloilo esta en el uso de la palabra.

SR. LAPAK: Señor Presidente, pido qué ta cnmienda se envíe al Comité de Estilo.

EL PRESIDENTE INTERINO: El Delegado por Iloilo esta en el uso de la palabra.

MR. CONFESOR: (Continuing.) Commissioner Guevara, a few days after leaving the Philippines, made the statement that the transition period should be extended from ten to twenty-five years. The other day he made another statement or proposition to the Congress of the United States, requesting the creation of a Military Commission to investigate the possibilities of the Philippines defending her sovereignty in case of independence.

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

THE ACTING PRESIDENT: What is the point of order ?

MR. CONFESOR: I have not finished yet.

MR. INTING: The amendment is out of order, because the Gentleman is taking issue only with a statement given by Commissioner Guevara with which this Convention has nothing to do.

THE PRESIDENT: The Chair sustains the question of order.

MR. CONFESOR: I am not through yet.

(Continuing.) Mr. President, in this afternoon's issues of the Philippines Herald and La Vanguardia, we find again published a statement of Commissioner Guevara to the effect that we are not in a position to assume the obligations and responsibilities of a sovereign state because Japan is ready — the minute American sovereignty is relinquished here — to gobble up the country: meaning, that upon the grant of Philippine independence, Japan will immediately destroy the Islands.

Now, what is the purpose behind these activities of Commissioner Guevara in the Congress of the United States? Was it in the mind of Commissioner Guevara to proclaim to the world, in his official capacity as Resident Commissioner of the Philippines, that we must be very careful of Japan because she is ready to destroy our independence? Is it the purpose of Commissioner Guevara to plant fear in the hearts of the Filipino people so they would agree to extending the time for independence twenty-five years from now, or accepting a dominion form of government, which Mr. Guevara implies we should accept?

MR. MARAMARA: Mr. President, it seems to me that the Gentleman is centering his argument on Commissioner Guevara. May I ask if Commissioner Guevara has been expressing his opinion as a private citizen of the Philippines or as an official of the Government?

MR. CONFESOR: Commissioner Guevara is a member of this Convention. He was re-elected by the Philippine Legislature as one of our Resident Commissioners. His statement was made on the floor of Congress. Mr. Guevara had no reason for expressing his private opinion on the destiny of this country because he is an official representative of the Filipino people. Mr. Guevara cannot dissociate his private convictions on the Philippine question in his capacity as an official representative of the Filipino people.

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

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

SR. CONFESOR: Sí, Señor.

SR. RICOHERMOSO: ¿Cree Su Señoría qué la enmienda que acaba de presentar, es una enmienda oportuna, porque con ella se quiere demostrar a esta Asamblea que la conducta del Señor Guevara merece una critica o censura?

SR. CONFESOR: Muy oportuna.

SR. RICOHERMOSO: ¿De modo que Su Señoría cree que la enmienda que acaba de presentar es muy necesaria, porque debemos demostrar al pueblo americano que el pueblo filipino esta dispuesto a recibir su independencia?

SR. CONFESOR: Precisamente debemos aprobar esta enmienda para demostrar a los Estados Unidos que no estamos con el Comisionado Guevara.

SR. RICOHERMOSO: Sí no he entendido mal, parece qué Su Señoría, en su brillante discurso, dio a entender qué el pueblo filipino no esta dispuesto a recibir la independencia.

SR. CONFESOR: Eso lo dice el Comisionado Guevara; no lo digo yo.

SR. RICOHERMOSO: ¿No cree Su Señoría qué eso es innecesario?

SR. ESCAREAL: Para una moción privilegiada.

SR. CONFESOR: Tengo el floor, Señor Presidente y no hay derecho a presentar una moción.

SR. ORTEGA: Para algunas preguntas al orador.

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

SR. CONFESOR: Sí, Señor.

SR. ORTEGA: Segun entiendo, Su Señoría basa su manifestacion en lo qué respecta al Comisionado Guevara, en las publicaciones de la prensa.

SR. CONFESOR: Sí, Señor.

SR. ORTEGA: ¿Tiene usted prueba positiva de qué realmente ha dicho eso el Comisionado Guevera?

SR. CONFESOR: Sí, Señor. Precisamente la prensa misma. For el contrario, Su Señoría no tiene pruebas positivas de qué el Señor Guevara no ha dicho eso. Hay prueba prima facie en contra del Comisionado Guevara.

EL PRESIDENTE INTERINO: La Mesa advierte al orador qué esta para expirar su tiempo.

SR. CONEJERO: Pido qué se le conceda todo el tiempo necesario, porque es muy importante este asunto.

SR. CONFESOR: (Prosiguiendo.) Precisamente, he presentado esta enmienda para qué, al aprobarse y ser sometida la Constitucion al pueblo filipino por medio del plebiscite qué prescribe la Ley Tydings-McDuffie, el pueblo tenga la oportunidad de votar en contra o a favor de este precepto.

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

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

MR. CONFESOR: With pleasure.

MR. BOCAR: I remember very well, Gentleman from Iloilo, when we inaugurated the session of this Convention on that historic July 30, 1934. The Gentleman made an impassioned speech before this Convention eulogizing the services and merits of Commissioner Guevara. By his speech, the Gentleman made us believe that he himself was loyal to and an admirer of Commissioner Guevara because of the latter's services and everything he did in that capacity while he was in Washington. Has the Gentleman's loyalty to and faith in Commissioner Guevara suddenly changed?

MR. CONFESOR: When I nominated Commissioner Guevara for the Presidency of this Convention, he had not yet made such unpatriotic statements.

MR. BOCAR: So that, Gentleman from Iloilo, the Commissioner Guevara whom the Gentleman would have placed on a pedestal for having rendered good services up to July 30, 1934, is not the same Commissioner Guevara now ?

MR. CONFESOR: Has not Commissioner Guevara made additional statements after July 30? Does the

Gentleman want me to be responsible for what he said after July 30?

SR. SOTTO (F.): Para un turno en contra de la enmienda.

SR. CONEJERO: Para algunas preguntas al orador.

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

SR. CONFESOR: Sí Señor.

SR. CONEJERO: Al hacer el Comisionado Guevara esas declaraciones en el floor mismo del Congreso, ¿no cree Su Señoría qué el no solamente expresaba su opinion personal sino también como funcionario y representante del pueblo filipino?

SR. CONFESOR: Sí, Señor. Como representante del pueblo filipino.

SR. CONEJERO: Luego, ¿su opinion viene a ser no personal sino del pueblo filipino?

SR. CONFESOR: Sí, Señor.

SR. CONEJERO: ¿Y no cree Su Señoría qué esa opinion debe de alguna manera aclararse con el fin de qué el pueblo de los Estados Unidos pueda saber cual es el deseo de los filipinos?

SR. CONFESOR: Sí, y esta Convencion es el cuerpo más llamado para desmentir las declaraciones del Comisionado Guevara.

MR. VINZONS: Mr. President, this is a serious matter for our consideration.

SR. CUADERNO: Señor Presidente, para una cuestion de orden.

EL PRESIDENTE INTERINO: ¿Cual es la cuestión de orden?

SR. CUADERNO: Yo creo qué la enmienda no debe incluirse en la Constitucion; para mi, es materia qué debe ser objeto de una resolucion.

SR. CONFESOR: Sí no tiene cabida en la Constitucion mi enmienda, tampoco tiene cabida esta Declaracion de Principios.

SR. CUADERNO: Señor Presidente, yo he suscitado una cuestión de orden y pido qué se resuelva.

EL PRESIDENTE INTERINO: La cuestión de orden stiscitada por el Delegado por Bataan es muy importante y la Mesa deja a la Asamblea qué la resuelva. El Caballero de Bataan, Señor Cuaderno, ha suscitado una cuestión de orden fundandose en qué la enmienda sometida por el Delegado por Iloilo es completamente extrana a la Constitucion. Siendo esta una cuestión muy importante, la Mesa se abstiene de resolverla y prefiere qué la Asamblea lo haga, Los qué estén conformes con el punto de orden suscitado por el Delegado por Bataan digan Sí. (Una mayoría: Sí.) Los qué estén en contra, digan no. (Una minoría:No.) La Asamblea estima la cuestión de orden.

SR. CONFESOR: Señor Presidente, para una cuestión de privilegio, Presento esta enmienda como una Resolution.

EL PRESIDENTE INTERINO: A menos qué haya consentimiento unanime, no ha lugar. ¿Hay alguna objeción?

SR. SOTTO (F.): Me opongo.

VARIOS DELEGADOS: Nos oponemos.

EL PRESIDENTE INTERINO: Habiendo objeción, y envolviendo este asunto una enmienda al Reglamento, no ha lugar a su consideration.

SR. CONEJERO: Yo pido a la Mesa qué ya qué esa Resolution no ha sido aceptada por la Asamblea, qué al menos sea incluida en los records.

EL PRESIDENTE INTERINO: ¿Hay alguna objeción a la petition?

SR. VILLANUEVA: Yo me opongo.

EL PRESIDENTE INTERINO: Habiendo objeción, no ha lugar a la insertion.

SR. CONEJERO: Señor Presidente, ¿quien es el qué ha objetado?

EL PRESIDENTE INTERINO: El Delegado por Negros Oriental.

SR. CONEJERO: Yo pido, Señor Presidente, qué la Mesa consulte a la Asamblea, ya qué no se ha aceptado como enmienda ni como Resolution, si no se pusde incluir eso en los records de la Asamblea.

EL PRESIDENTE INTERINO: ¿Hay alguna objeción a la petition?

SR. ORTEGA: Me opongo.

VARIOS DELEGADOS: Nos oponemos.

EL PRESIDENTE INTERINO: Habiendo objeción, la Mesa declara qué no ha lugar a la petition.

LEVANTAMIENTO DE LA SESION

SR. LOPEZ (V.): Señor Presidente, pido qué se levante la sesión.

EL PRESIDENTE INTERINO: Sí no hay objeción, se levanta la sesión hasta mañana a las dos de ta tarde. (No hubo objeción.)

Eran las 5:57 p.m.

De conformidad con to acordado por la, Asamblea, se inserta el siguiente discurso.

DISCURSO DEL DELEGADO SR. TORIBIO PEREZ

MR. PEREZ (T.): Mr. President and Gentlemen of the Convention: No country in the world today will ever admit that she favors war as an instrument of national policy. In fact, even if she were actually engaged in it, her invariable excuse would be that she was fighting only in self-defense, in the interest of self-preservation. No nation, however powerful with her vast fleet and strong standing armies, could long successfully engage in the iron trade of war defying all humanity without in the end suffering humiliation at the hands of sister nations who love peace and abhor war.

We have seen how Germany, whose aggressive conduct before and during the World War alarmed the whole world, finally excused herself by saying that she was forcibly drawn into combat to maintain her territorial integrity and to live up to her covenants. Just recently, when aroused by strong popular sentiment in Central Europe against Marxism that was allegedly responsible for the assassination of Chancellor Dollfus of Hungary, Germany reasserted her policy never to fight again except perhaps for the preservation of her national frontiers.

Even as a small nation we also have a right to self-preservation. On more than one occasion in the past we exercised that right. Blood was shed and fortunes were wasted as we resisted foreign invasion. Magellan lost his

life because Lapu-Lapu and his men resented the invader's attempt to subjugate our people. General Gregorio del Pilar gave up his life in heroic defense of Tirad Pass so that no invader on this soil might raise a foreign flag here. Our worthy predecessors fought and fell because of home and country which were threatened by foreigners.

The draft, however, would have us renounce war as an instrument of national policy. Under such an arrangement, we could never strike a blow amounting to war even if foreign battleships have already started the bombardment of Manila Bay or enemy bombing planes have begun the destruction of this historic edifice. Nay, we would not be able even to raise a finger of protest against the wanton and brutal massacre of women and children. Under such a situation we would be simply powerless, all because the Constitution has tied our people's hands and feet, keeping them from fighting any wars, not even in defense.

Mr. President, are we already so weak and downtrodden as a people that we need to confess our own impotence, telling the whole world that we can no longer fight our own battles? Have we become so low and servile as a people — after these many years of subjection and tutelage — as to admit in our Constitution that the blood spilled in Balintawak, Tirad Pass, Zapote and Bagumbayan no longer flows in our veins? God forbid that by our very conduct today we desecrate the hallowed memory of our heroes and martyrs who preferred a heroic death to a life of slavery!

Besides, Mr. President, we cannot outlaw war, much less in our Constitution. Conferences, treaties, and pacts have been signed time and again purportedly to end war, yet the rumblings of war are still heard everywhere. Continental Europe drips with blood, with the assassination of no less important personages than rulers and high ministers. As long as diplomatic intrigues and imperialistic designs obsess the human heart, so long will there be wars. Today may not witness any war in the Orient, but nobody knows what tomorrow will bring to this part of the globe. We of this age and generation may prepare for Octavian peace and even refuse to fight even on the greatest provocation; but when we become free and independent with the allurements that our country will offer to less altruistic and more imperialistic powers, when the Far East finally becomes the center of world commerce — as the trend of events now unmistakably indicates — our people may yet be forced under new conditions and changed circumstances to fight greater wars than we knew them in 1896 and 1898.

In conclusion, Mr. President, let it be said that if we seek the suppression of the provision in the draft regarding the renunciation of war, it is not that we favor it but simply because we already have a provision elsewhere in our Constitution that will avoid war and conquest on our part. I refer to the preceding Article II regarding; our national territory wherein we refuse to expand our territorial limits by acquiring other lands.

This article is more than a mere declaration of principles. It is a positive assurance that we shall never wage a war of conquest as long as Creation exists. But if war should ever come to threaten our very existence as a people — a war that once again might reduce us to subjection and servitude — then let it come, for still, I trust that the courage, sacrifice and patriotism of the Bonifacios, Del Pilars, Lakandulas and Rizals among our people will never be found wanting in our race.

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