

JOURNAL No. 50

VOL. III, September 27, 1934

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Se abre la sesion a las 5:00 p.m. ocupando el estrado el Vicepresidente, Hon. Ruperto Montinola, por designacion del Presidente.

EL VICEPRESIDENTE: Se abre la sesion.

DISPENSACION DE LA LECTURA DE LA LISTA
Y DEL ACTA

SR. ESCAREAL: Senor Presidente.

EL VICEPRESIDENTE: Senor Delegado.

SR. ESCAREAL: Pido que se dispense la lectura de la lista y del acta; y que esta se de por aprobada.

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

DESPACHO DE LOS ASUNTOS QUE ESTAN SOBRE
LA MESA DEL PRESIDENTE

EL VICEPRESIDENTE: Leanse los documentos recibidos.

EL SECRETARIO:

REPORT OF THE COMMITTEE ON PUBLIC
INSTRUCTION

The Honorable
The President of the
Constitutional Convention

Mr. President:

Your Committee on Public Instruction, after a careful consideration of all the constitutional proposals referred to it, has the honor to report to the Convention that it recommends the incorporation in the Constitution of the attached proposals on education. Your Committee wishes to state that its members are divided on the question of whether or not a Department of Health, distinct from and independent of the Department of Education, should be created, and for this reason it leaves, the determination of this question to the Convention.

Respectfully submitted,

(Sgd.) RICARDO NEPOMUCENO

Chairman

Committee on Public Instruction

PUBLIC AND PRIVATE EDUCATION

"ART. 1. There shall be a Department of Education.

"ART. 2. The State shall establish and maintain a complete and adequate system of public education primarily conducted in the English language

"ART. 3. The State shall provide for a universal citizenship training course for every able-bodied citizen of the age of eighteen years or over for purposes of physical, mental, moral and vocational instruction and rehabilitation.

"ART. 4. The State shall protect and preserve works and remains of relics or cultural, historic, artistic or scientific value.

"ART. 5. Instruction in at least the public primary schools shall be absolutely free.

"ART. 6. Upon the adoption of a national language it shall be taught in the public intermediate schools.

"ART. 7. The public schools shall be free from sectarian teaching or propaganda.

"ART. 8. Free scholarships, through competitive examination, shall be granted by the State, provinces and municipalities to enable students of exceptional mental ability, who are of good moral conduct and character but are without sufficient resources, to continue their studies in courses higher than primary. The number, duration and extent of these scholarships shall be determined by law.

"ART. 9. All private institutions of learning shall be subject to the laws of the State.

"ART. 10. No educational institution engaged in teaching Filipino citizens shall have more than one-third of its faculty or board of trustees who are foreigners, and where its president or director is a foreigner there shall be a vice-president or assistant director who is a Filipino citizen and who shall participate in the determination of educational policies and objectives.

"ART. 11. Nothing subversive of law and order, degrading to the reputation and character of the Filipino people, or destructive of their unity shall be taught or encouraged in any school, college or university."

MR. CARIN: Mr. President, I desire to make use of the one-half hour privilege.

EL VICEPRESIDENTE: El Caballero de Cebu tiene la palabra.

SPEECH OF MR. CARIN AGAINST THE
IMPLANTATION OF THE PROPORTIONAL
REPRESENTATION

MR. CARIN: Mr. President and Gentlemen of the Convention: After hearing the brilliant speech delivered by Senator Briones last Monday concerning proportional representation, I feel myself too insignificant to entertain this august Body with another speech concerning the principle of proportional representation. But being a member of the Legislative Committee which favorably recommended the insertion of this principle into our Constitution, the penetrating voice of my duty as a Delegate impels me to rise before this Convention to speak against the implantation of proportional representation recommended by the Legislative Committee and reported to the Sponsorship Committee.

Definition, and system of balloting:

Proportional representation has been defined as representation in proportion to numerical strength. It has been applied to systems in which representation is given to the minority as well as to the majority, or to all considerable groups of electors in proportion to their voting strength. Different systems of balloting have been adopted to carry out the purpose of this principle. The two most popular systems are (1) the single transferable vote commonly known as the Hare system, and (2) the list system. The Legislative Committee recommended the list system, which reads as follows:

The political parties that elected the largest and the second largest number of members to the House of Representatives in the last preceding election, and any other party or group that elected no less than five members to said House of Representatives in such election or which shall present a petition signed by at least five per centum of the voters who cast their votes in said election may, in convention, nominate a panel or list of candidates not to exceed the number of Senators to the group thus entitled to present nominations. Upon such nomination the names of the parties or groups thus entitled to present nominations shall be printed on the ballot. Each elector shall indicate the party or group for whose candidate he desires to cast his vote. After all the returns are received the sum total of all the votes for the Senators cast and counted shall be divided by the number of seats to be filled and the quotient shall be taken as the unit or quota of representation. The sum total of all the votes polled by each party or group shall be divided by the unit or quota of representation, and the quotient thus obtained will indicate the number of seats to which each party or group is entitled; but if the sum of each quotient be less than the number of seats to be filled, the party or group having the largest remainder after excluding the votes counted to form the quotas of elected candidates as above specified, shall be entitled to the first vacancy and so on until the total number of seats is filled. The seats corresponding to each party or group shall be filled by the preference in which the names of such candidates appear in the panel or list of nominees filed by said party or group.

First Objection: Would do violence to the Freedom of each elector.

According to this system, each elector shall vote a straight party ticket, and his single vote shall be considered as the vote for all candidates included in the list of said party. Mr. President, we all know that one of the most sacred constitutional rights granted to the citizens of the State is the right of suffrage. It is the only means of redress given to the sovereign people which must be preserved inviolate at all costs. Concomitant to the exercise of suffrage is the complete freedom to choose his own representatives untrammelled by outside influences. Each elector has the right to follow the dictates of his own conscience in choosing his representatives and the government must comply with the verdict of popular will once rendered.

The list system adopted by the Legislative Committee under the principle of proportional representation will, in the first place, do violence to the freedom of each elector to choose his own representatives, and secondly, entirely disregard or trample upon the verdict of the popular will expressed at the polls.

To elucidate my point, here is a concrete case: Let us assume that the Nacionalista-Democrata party will nominate in convention 24 candidates for Senators, and among the nominees appear the names of President Quezon, Senator Recto, Speaker Paredes, Senator Sumulong, Senator Sotto and other senatorial timbers in that party. The Pro-Independencia party will nominate in convention 24 candidates and among the nominees are Senator Osmena, Rep. Roxas, Senator Montinola; and the Sakdalistas will put up Rep. Hontiveros and other persons in that group. A great number of electors, if not the majority of them, have in their hearts the well-being of their country and would like to vote for President Quezon, Recto, Sumulong, Paredes of the Nacionalista-Democrata ticket; for Senator Osmena, Roxas, Briones, of the Pro-Independencia ticket; and the Sakdalistas may desire to cast their votes for some candidates on the Nacionalista-Democrata ticket and for other candidates on the Pro-Independencia ticket.

Under the list system adopted by the Legislative Committee, how can these voters express their desire for these

persons at the polls? An elector is not allowed to pick some candidates from the ticket of one party, and other candidates from the tickets of other parties. Therefore, the freedom of each elector to vote for certain persons as their representatives is curtailed to such an extent that suffrage to him is no longer a privilege but a tyranny, an imposition upon his freedom of action and freedom of choice.

Second Objection: Would multiply groups and break up large parties.

Another objection of considerable weight, Mr. President, against the principle of proportional representation is that proportionalism would multiply groups and break up large parties. It is an accepted truth that ambition is always present in the minds of great men. Concomitant with the ambitious mind is the odious thought of scaling the heights of greatness some day which is a sheer hypocrisy, because the ambition to be great is latent, inherent in every human being.

Mr. President, the immediate effect of this list system recommended by the Legislative Committee is to create jealousies among candidates of the same party, running together but each impelled by his own ambition of seeking to be Number 1, 2, 3, or at least Number 4 or 5 in the panel of candidates of his party. There will be a scramble among the persons who consider themselves senatorial timbers to obtain the first preference to insure their election. If their wish is thwarted by the party machine upon dictation of the mandarin of the party, then disgust, displeasure, and ultimate disruption of the party will be the logical result. The disgruntled members, with their sympathizers who are not always lacking, will band themselves and form political groups of considerable sizes to entitle them to nominate a panel of candidates for Senators required by the Constitution. There will, therefore, spring up like mushrooms small political groups of divergent colors and views.

That is undoubtedly the reason why the principle of proportional representation has not been adopted in either the United States or Great Britain where the party system is so deeply rooted and where the traditions of two great parties in opposition have always been strong; In fact, according to an author of note, proportional representation thrives only in countries like Germany which had always group system in Parliament, and in new countries like Czecho-Slovakia without the tradition of party system to change. But countries which adopted it on account of its fascinating theory later abolished it after finding out that it is rotten in practice. The countries which abolished it are: Canada, Ireland (1922), Australia, Union of South Africa (1918), and Italy (1924).

One of the gravest objections to this system of representation is that it will lead to government instability. The inevitable outcome of the disintegration of big parties is the formation of small minorities in the House. Their presence in the Legislature will necessitate the creation of a fragile "coalition government" of minorities which will easily fall whenever one section of opinion in them is outraged. In Belgium, for instance, the system has been worked out to such mathematical perfection that statesmen have utmost difficulty in forming a cabinet owing to the multifarious interests involved and the difficulty of finding a line of common action among them. The resultant phenomenon of proportional representation is (1) lack of legislative homogeneity because of different opinions and interests represented, (2) debates are indefinitely prolonged, and (3) important measures are earned only by small majorities.

Third Objection: Connection between the member and his constituency becomes obliterated.

It has been pointed out that proportional representation is obnoxious to good political health, because the connection between the member and his constituency becomes obliterated. A prominent author points out that "to bring a definite portion of the population into a close and constant connection with the central government, hereditary antecedents and current mutual dependence must be a primary object to the statesman's solicitude." This personal relationship between the member and his constituency has been often made, and is capable of being still more, the occasion of the finest species of political training for the people.

The enlargement of the electoral area is in itself a factor which will ultimately destroy the personal contact between the candidate and his constituents, because a candidate for senator-at-large will find insurmountable difficulties in campaigning for his candidacy throughout the Philippines. The result will be that the electorate in Aparri or Batanes will not have the chance to know by personal contact or otherwise the candidates hailing from Mindanao or Visayas. The personality of the candidate will be entirely effaced before the party group. The voters will be completely at the mercy of the whims and caprices of the party; if the party tells them to swallow a certain candidate, even though the latter had committed the most atrocious crime to the people, they will have to swallow him. If the people of one province have become the pitiful victims of the abuses and corrupt practices of a senator from that province, said people will be unable to find redress during election against the erring senator. The result is that our senators will be lukewarm to public opinion. Not knowing that portion of the people that elevated him to the Senate, he will not care for their criticisms, so long as he has the support and is in the good graces of his party chiefs.

The chief reason so far adduced by the advocates of proportional representation is that it will present the appearance of arithmetical fairness of minority representation in the Senate. Delegate Perez has cited figures to substantiate claims that the present system is unjust and inequitable. Senator Briones, in his eloquent dissertation on the advantage of the principle of proportional representation, said that this system accomplishes what it sets out to do—to secure the representation of the minorities. An example has been given of a case in which there are 1,200,000 votes cast for all parties. If 1,000,000 votes are cast for one party and 200,000 votes for another, the advocates claim that it would be just and fair under the system of proportional representation, that 200,000 voters be given representation in the Senate. Under the present system, they may not have representation at all.

At first blush, this argument seems highly tenable, but arguments show that it has no real merit. In the first place, in every democratic or republican form of government, it is the majority that should rule. If the verdict of the people is overwhelmingly for a certain party, that sovereign popular will should be carried out. If the 1,000,000 electors gave their votes in favor of certain candidates, it would be quite undemocratic to disregard their wishes for these electors constitute the majority. In my opinion, it would be more unjust, more inequitable and highly violative of the principle of majority rule to follow the wishes of 200,000 voters over the supreme will of the 1,000,000 voters.

In the second place, it is not true, as claimed by the advocates, that these 200,000 voters may not be represented. A certain party may be defeated in some districts, but it is also true that it may be victorious in another district. The victorious candidates belonging to a certain party represent in the Senate the entire membership of his party; so that, while some electors may lose their candidates in some senatorial districts, they are nevertheless represented in the Senate by their victorious candidates in other districts. In Cebu, for instance, the two Senators (Osmena and Briones) are both "pros" but no one can dispute the fact that the "anti" senators in the Senate represent their respective provinces and also the entire membership of the party to which they are affiliated.

Fourth Objection: Unfavorable to National Unity.

In support of another objection to the effect that proportional representation is unfavorable to national unity, I will quote an opinion of a well-known author of Political Science. It reads:

"While it can be admitted that a Senate of this composition presents the appearance or arithmetical exactness of minority and majority representation, yet the very sharpness of the line separating the different classes of members is unfavorable to national unity and to legislative homogeneity. The members of the Senate as elected bring with them into the House the deep-rooted oppositions of sentiment which prevailed on the spot at which the election took place, and which were exacerbated and intensified by all the incidents of a sharply contested election.

If it is true, as has been already admitted, that the mere economical distribution of society would, of itself, always maintain the existence of great political parties inclining in opposite directions, it is furthermore, a true condition of healthy political existence that every means be exerted to render these fixed oppositions as compatible as possible with the unity of state life.

This unity can be best secured not only by softening, in all forms of social intercourse, and in Parliamentary matters, the asperities of party spirit, but by preventing hard party lines being drawn in the ordinary working of the Constitution. Party divisions even where there cannot be true and deep differences of interests and sentiments should be kept as casual and evanescent as possible in their formal expression. They should instantly disappear before the solvent of a national call which appeals to that which is deeper and more permanent than themselves, and the utmost opportunity should be afforded for the frequent subordination of them or other claims of different kind.

Fifth Objection: Complicated in the process of counting.

Another objection to the implantation of proportional representation is that this system may be puzzling to voters, and it is so complicated in the process of counting votes as to place the elector at the mercy of the counting authority. Mr. President, many electoral frauds have been committed by audacious, intriguing election inspectors with the object of defeating a single candidate. Instances of scandalous election frauds have been registered in the provinces of Capiz, Cebu, and those in the Bicol region to frustrate the people's verdict on a certain candidate. If electoral frauds have been committed to make a single candidate win the election, how much more frauds will be committed to make the whole list of party candidates win? I am positively sure, Mr. President, that if the strength of political parties is about equal, all methods of political corruptions and frauds will immediately come into play in order to obtain the majority seats in the Senate under the list system of proportional representation.

In view of the foregoing reasons, I feel that implantation of the principle of proportional representation in the Philippines is highly inadvisable and impracticable. We, as disciples of America's benevolent tutelage for 36 years, must not divert our steps from America's accepted, well-established political ideas and principles. We must not outrage the American people now closely watching our steps by adopting a system inimical to their political institutions.

Proportional representation is outlawed in the United States. It has been declared unconstitutional by the Michigan Supreme Court in 1920 and by the California Supreme Court in 1922. To implant this principle in the Philippines despite these judicial pronouncements will be interpreted as an act of disrespect to our tutor who sacrificed some of her bravest soldiers for our redemption, and eventually for our independence. I thank you.

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

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

MR. CARIN: With pleasure.

MR. EZPELETA: Is it not true that the Gentleman is a member of the Legislative Committee.

MR. CARIN: Yes, I am.

MR. EZPELETA: Has the Gentleman filed a minority report?

MR. CARIN: No. That is not necessary.

MR. EZPELETA: Does the Gentleman believe in party government or in a government by personalities?

MR. CARIN: I believe in party government, but I am opposed to this system.

MR. EZPELETA: What harm will there be if the people vote by party ticket instead of personalities? The Gentleman mentioned that it would be unjust to make electors vote by party ticket instead of the candidates. If you believe in party government, what need will there be for the electors to select two men from the party, three from another party, instead of voting for a straight party ticket?

MR. CARIN: I believe in party government but I prefer to let an elector have freedom to choose. A voter may vote for certain candidates of one party and some candidates of other parties.

MR. EZPELETA: So, the Gentleman believes in party government?

MR. CARIN: I believe in party government opposing each other.

MR. EZPELETA: The Gentleman believes in party government to oppose each other. He does not believe in party but in personalities.

MR. CARIN: There will be no party government in this proportional representation. Big parties tend to disrupt, and party members will wrangle only.

MR. EZPELETA: The Gentleman mentioned that the theory of proportional representation was abolished in Italy. Is he aware that it was also abolished in Austria and in Canada by pressure of the Crown and not by the will of the people?

MR. CARIN: It was abolished because it was found good only for local governments but not for the insular government.

MR. EZPELETA: The Gentleman mentioned that it was declared unconstitutional in Michigan.

MR. CARIN: Yes, by the Supreme Court of Michigan in 1920.

MR. EZPELETA: If we put that in our Constitution, will the Supreme Court of Michigan declare it unconstitutional?

MR. CARIN: The Gentleman from Iloilo is a lawyer and he knows that the Supreme Court of Michigan has no jurisdiction over our Constitution here.

MR. EZPELETA: So the fact that the Supreme Court of Michigan declared the theory of proportional representation unconstitutional will not bar the Philippines from incorporating it in our Constitution?

MR. CARIN: It is no bar. But I mentioned that fact only to show that in the United States the principle of proportional representation has been declared unconstitutional.

MR. GRAFILO: Will the Gentleman yield?

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

MR. CARIN: Yes, sir.

MR. GRAFILO: As substitute for election of senators-at-large, to which the Gentleman does not agree, will he favor the election of at least one senator from each province, instead of election of senators-at-large?

MR. CARIN: I favor the present system.

SR. LAPAK: Sr. Presidente, para algunas preguntas al orador.

EL VICEPRESIDENTE: El orador puede contestar si le place.

SR. CARIN: Con mucho gusto.

SR. LAPAK: Su Senoria ha dicho que es miembro del Comité Legislativo.

SR. CARIN: Si, señor.

SR. LAPAK: ¿No es verdad que este asunto sobre representación proporcional se ha discutido en el Comité Legislativo hace ya varios días?

SR. CARIN: Si, señor; pero estaba ausente.

SR. LAPAK: ¿Quiere su Senoria decir que no asistió?

SR. CARIN: No pude asistir.

SR. LAPAK: ¿Por esa ausencia de su Senoria el Comité aprobó casi por unanimidad ese precepto?

MR. CARIN: That does not bar me from speaking against the principle because I was not present in the Committee.

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

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

MR. CARIN: Willingly.

MR. ARUEGO: Does the Gentleman know if the principle of proportional representation is actually used in the election in some states of the United States?

MR. CARIN: No, it is used only in local elections; it was also outlawed in some states.

MR. ARUEGO: From the Gentleman's research on the subject, did he find out whether the system of proportional representation is used in the election of members of the legislature in the states of Michigan and Illinois?

MR. CARIN: I am very sure about that. I think it is not followed.

MR. ARUEGO: The Gentleman has not found out if it is followed in Illinois. It is being followed in the election of members of the Illinois Legislature.

MR. CARIN: That is one of the systems adopted to carry out proportional representation.

MR. ARUEGO: Do you know if the preferential system is actually carried out in some states of the Middle West?

MR. CARIN: I believe not. It is carried out in localities only.

MR. ARUEGO: In the election of members of state legislatures?

MR. CARIN: It is not followed.

MR. ARUEGO: I wish to express with due deference to the Gentleman's opinion, that this preferential system is actually followed in some Middle West states. Now I ask: Is he against the principle of proportional representation as a system or he is against the methods recommended by the Committee?

MR. CARIN: I was originally in favor of proportional representation as a principle, without specifying the system of carrying out that principle. But after studying some authorities of the opinion that proportional representation is good only in theory but a failure in practice, I changed my opinion on the subject.

MR. ARUEGO: Did the Gentleman try to find the nature of the system of proportional representation that has

actually failed? There are several methods actually used in the system of proportional representation.

MR. CARIN: As far as I have found, in countries where there are two opposing parties the system of proportional representation is not adopted. In European countries with small groups, the system of proportional representation is adopted. It thrives already in Germany.

MR. ARUEGO: Is the proportional system which failed the one wherein the voters are required to vote for tickets but not for individual candidates?

MR. CARIN: That is precisely the system recommended.

MR. ARUEGO: Is the Gentleman against the system of proportional representation as a principle when carried according to that method?

MR. CARIN: In answer to the question, let me point out that in countries where the single transferable vote has been adopted, it also failed because the intricacies in vote-counting place the votes of the electors at the direction of the counting authority. That is the reason why it failed.

MR. ARUEGO: One of the Gentleman's objections to the adoption of the system of proportional representation in the Philippines is that of the 24 candidates of the party some might not be chosen even if they are more popular than the other candidates of the party.

MR. CARIN: Yes.

MR. ARUEGO: Would the Gentleman object to a system of proportional representation where electors can cast their votes for party members, but not for the party launching its 24 candidates?

MR. CARIN: That is not the preferential system, although that method falls under it.

MR. ARUEGO: This method is not like the preferential system. Under such system, you indicate your first preference, then your second, third, fourth, and fifth and so on. But according to this system I am telling you about, the voters vote for the party of their choice; but they also can vote for candidates of the party. In the end, there will be candidates presented by the party which will obtain a greater number of votes than the others; so the Gentleman's objection will be avoided, and even the No. 24 candidate may be elected because he obtains a greater number of votes from the party. Would the Gentleman object to the system of proportional representation where the voters are allowed to vote for the members of the party and not only one party?

MR. CARIN: I will think it over, although that is not the precept recommended by the Committee.

MR. ARUEGO: That is why I am asking if the Gentleman is against the system of proportional representation as a principle or against such system when accompanied by this method?

MR. CARIN: I am against the system.

MR. ARUEGO: Suppose the voters are given preference to vote for the individual candidates of the party, not merely voting for the party. Will the Gentleman approve that plan?

MR. CARIN: That will remove only one of the objections; but the other objections are still here.

MR. ARUEGO: One of the Gentleman's objections is that under this system recommended by the Committee, the voters will be deprived of voting for outstanding candidates of the party.

MR. CARIN: Yes, sir.

MR. ARUEGO: There is also a system of proportional representation where the voters may vote for one party,

vote for the majority candidates of that party, and also cast their votes for the other party.

EL VICEPRESIDENTE: Ha expirado ya el tiempo del Caballero de Cebu.

LEVANTAMIENTO DE LA SESION

SR. ROMERO: Senor Presidente, pido que se levante la sesion hasta manana, a las 5 de la tarde.

EL VICEPRESIDENTE: Si no hay objecion, se le-vanta la sesion hasta manana, a las 5 de la tarde. (No la hubo.)

Eran las 5:52 p.m.

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