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### APERTURA DE LA SESION

Se abra la session a las 3:10 p.m., ocupando el estrado el Presidente, Hon. Claro M. Recto.

EL PRESIDENTE : Se abre la session.

### DISPENSACION DE LA LECTURA DE LA LISTA Y DEL ACTA

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

EL PRESIDENTE: Hay alguna objecion a la mocion. (Silencio.) La Mesa no oye ninguna. Queda aprobada. Se dispensa la lectura de la lista y del acta, dandose esta por aprobada.

### EL SECRETARIO:

#### CONTINUACION DE LA DISCUSION DEL PROYECTO DE CONSTITUCION ENMIENDA DEL DELEGADO PEREZ (J.)

#### EL SECRETARIO:

By Delegate Perez (J.): page 2, line 20, between the words “of” and “taxes”, insert the word “poll”.

#### DISCURSO DEL SR. PEREZ (J.)

EL PRESIDENTE: Tiene la palabra el proponente de la enmienda.

MR. PEREZ (J.): Mr. President, I desire to call the attention of the Convention to the fact that there is a difference between the amendment presented by us and that which appears in the mimeographed copies distributed to us. The amendment consists in inserting the words “land or poll” between the words “of and “taxes” on page 4, line 20, so that the lines as amended, will read as follows: “No person shall be imprisoned for debt or non-payment of land or poll tax.”

MR. BUSLON: Yesterday, we discussed this matter to eliminate everything that impliedly eliminates the clause. The amendment involves a principle already taken up.

MR. PEREZ (J.): This refers to land or poll tax. The purpose of the amendment is clear. The draft, as submitted by the Sponsorship Committee, refers to all hinds of taxes. The amendment, however, would prohibit imprisonment only for nonpayment of land or poll tax. Nonpayment of internal revenue and other taxes is not included.

Thus, while the original provision is broader in its scope and effect, the amendment is limited. I think that without considering the guarantee against imprisonment for nonpayment of internal revenue and income taxes, we know these laws have been flagrantly violated by Chinese merchants. We tried to remedy the situation by the passage of the Chinese Bookkeeping Law. It is only just that no penalty or imprisonment be imposed for nonpayment of the

cedula or poll tax, because the tax is not progressive; it is antiquated. In case, however, of nonpayment of internal revenue or income tax, there is a difference. There is no immovable property against which the government may proceed.

MR. SANDOVAL: Under the present law, is nonpayment of land taxes penalized?

MR. PEREZ (J.): No. But we are not discussing the present law; we are discussing the fundamental law.

MR. SANDOVAL: Would it not be all right to mention only the cedula tax, because it is the nonpayment of the cedula tax that is penalized by imprisonment?

MR. PEREZ (J.): The Legislature may impose the penalty of imprisonment for nonpayment of land tax. The amendment is to elevate our present law penalizing non-payment of land tax to the category of the fundamental law.

MR. SANDOVAL: How about other taxes?

MR. PEREZ (J.): The Legislature may pass laws providing for imprisonment for nonpayment of taxes like the internal revenue or income tax.

MR. SANDOVAL: Do you believe that will be a discrimination?

MR. PEREZ (J.): No. Mr. President, the proposed amendment will make the provision in the draft to read as follows: "No person shall be imprisoned for debt or nonpayment of land and cedula or poll taxes."

MR. SANDOVAL: I understand from the father of the amendment that poll tax means cedula tax. The amendment would exempt nonpayment of only two taxes the land tax and the poll or cedula tax. The exemption must be general; it must cover nonpayment of not only the land tax and the cedula or poll tax but also of the inheritance, the privilege, and the internal revenue taxes. I see no reason why imprisonment should be imposed as punishment. Mr. President, the Government has some remedy to collect the inheritance tax, for example For other taxes, the Government has likewise other means to exact payment. There is no just reason to resort to incarceration or taking away one's liberty by means of imprisonment simply for the nonpayment of taxes. I am for the original provision, as it is written, because it applies to nonpayment of all kinds of taxes.

MR. SALUMBIDES: Mr. President, I would like to speak in favor of the amendment.

THE PRESIDENT: The Gentleman from Tayabas may proceed.

MR. SALUMBIDES: Mr. President and Gentlemen of the Convention: I am in favor of the amendment of Delegate Perez (J.) for certain reasons. If we do not penalize the nonpayment of internal revenue taxes, a dilemma may happen. Supposing a Chinaman sells everything in his store and he accumulates a big sum of money.

According to the Sales Tax Law, ha must pay a percentage tax on his sales. Now, after selling everything, the Chinaman hides the money. Because he is hiding the money and he has no property to be garnished, the Government cannot collect. And what will the authorities do in that case? How can the Chinaman be compelled to pay when he is hiding his money and he has no property to be attached? This situation is likely to happens and it may be unjust to the Filipino merchants. We know that, as a general rule, the Filipino merchant has some property, while the Chinaman has no land here. If the Filipino merchant cannot pay his sales tax, the Government can attach his property. Will not that be disadvantageous to the Filipino merchant? The law protects the Chinaman; the Government cannot force him to pay his sales tax because he is hiding his money, and he has no property to be attached, while the Filipino merchant is compelled to pay the Government because of his property that can be attached.

MR. GRAFILO: Mr. President, will the Gentleman yield to a question?

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

MR. SALUMBIDES: Willingly, Mr. President.

MR. GRAFILO: Is it not true that the privilege tax is a license to open a store and that it is paid in advance?

MR. SALUMBIDES: No, a license is different from a sales tax. The sales tax is paid within the year, or is may be paid every three months, while a license is paid right away upon application to open a store.

MR. GRAFILO: What kind of tax are you referring to?

MR. SALUMBIDES: I am referring to the sales tax. I think one-half per cent of the annual sales is paid to the Government.

MR. GRAFILO: What about the merchandise that the Chinese merchant sells?

MR. SALUMBIDES: No more; everything is sold.

THE PRESIDENT: The time of the Gentleman has expired.

MR. LIM: Mr. President, I would like to present an amendment to the amendment by suppressing the phrase "land tax," so that the provision will read as follows: "No person shall be imprisoned for nonpayment of the poll tax."

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

SR. PEREZ (J.): I accept.

SR. LAUREL: El Comite acepta la enmienda.

#### APROBACION DE LA ENMIENDA

EL PRESIDENTE: Se va a votar la enmienda. Los que esten conformes con ella, que digan Si. (Varios Delegados: Si.) Los que no lo esten, que digan No. (Varios Delegados: No.) Hay una mayoria a favor de la enmienda. Queda aprobada.

Lease la enmienda Araneta y otros.

#### THE SECRETARY:

By Delegates Araneta and others on page 4, lines 19 20, strike out the whole paragraph and insert in lieu thereof the following: "No person shall be imprisoned for debt, unless the same has been contracted by fraud, nor imprisoned for non-payment of taxes unless he is wilfully in default in the payment thereof."

SR. ARANETA: En vista de que se ha aprobado la enmienda Perez, tal como ha sido enmendada, no insistimos en la segunda parte de nuestra enmienda y la retiramos, porque tenia el mismo objeto. En cuanto a la primera parte, voy a delegar al Senor Sanchez para que hable sobre la misma.

THE PRESIDENT: The Gentleman from Batangas has the floor.

#### DISCURSO DEL SR. SANCHEZ

MR. SANCHEZ: Mr. President and Gentlemen of the Convention: In sponsoring the Araneta amendment, I ask the Members of this Convention to deliberate calmly on the effects thereof. The Araneta amendment seeks to insert the word "fraud"; that is to penalize the contracting of a debt through fraud. Let us take, for instance, a man who tries to obtain credit through false representation of his property or of his ability to pay the same. Let us bear

in mind that fraud, under the general law, is punishable in all its aspects; it should be more so with reference to fraud committed in contracting indebtedness. The only remedy that the creditor has in this case is to attach the property of the debtor under Sects. 412-424 of the Code of Civil Procedure. As a general rule, these people who commit fraud are known to be “listos”. When the Sheriff steps in for the purpose of procuring the property of the debtor, he usually returns with the writ of attachment empty-handed, because the property subject to attachment is fraudulently conveyed or is concealed.

Such state of affairs should not be tolerated in an orderly form of government, especially nowadays when we are on the threshold of becoming independent. Independence requires of citizens a measure of sacrifice, not only in favor of the Government but perhaps also in favor of their fellow citizens. Independence requires that we have citizens who are honest, citizens who can uphold not only principles of good government but also principles of upright dealings with their fellowmen. If these conditions are attained, we will have in the future a government on which the people can rely for their welfare and prosperity.

We should, therefore, approve the Araneta amendment because this will regulate not only transactions between man and man . . .

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

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

MR. SANCHEZ: Gladly, Mr. President.

MR. PELAYO: Does the Gentleman believe that under our present law, when a person contracts an obligation by means of fraud and deceit, he is not thereby liable for estafa?

MR. SANCHEZ: Not necessarily. I will cite to the Gentleman a case, one of the biggest cases ever record-ed in the history of Philippine jurisprudence. I will not mention the name of the case for I believe you know it already. It is being filed in a court of justice. Mr. Araneta is one of the counsel, our law firm is the other counsel. And there are many firms involved in that litigation. There are civil obligations which can be contracted, and yet we cannot criminally prosecute the debtors.

MR. PELAYO: Even so, if the animus furandi is proven, the case of Ganaway vs. Quillen, R. G. 18619, is my answer.

THE PRESIDENT: The time of the Gentleman has expired. Delegate Laurel has the floor.

MR. LAUREL: Mr. President and Gentlemen of the Convention: I must admit at the start that there are two theories in regard to the provision that no person shall be imprisoned for debt. By the Constitution of California, fraud is not exempted—that is to say, you can imprison a person even for debt, if there is fraud. However, the majority of the States of the United States have provided for a complete exemption from imprisonment for a debt, even in the case of fraud, and this is true of Ganaway vs. Quillen, a case concerning an absconding debtor who had committed fraud against his creditor. Our Supreme Court cited Section 412 of the Code of Civil Procedure, holding that the arrest was illegal on the the ground that it was a violation of the organic law prohibiting imprisonment for debt The same was held in the case of Tan King vs. Steward and in another case regarding an administrator who had borrowed money by means of fabricated representation. The situation in our jurisdiction is this: if there is any fraud, the likelihood is that it is covered by the provisions of the Penal Code, under which you cannot imprison a man for debt. The preference of the Committee is to leave the law as it is, to prohibit imprisonment for debt even in case of fraud. following the decisions of the Supreme Court. As I have said, if there is a commission of fraud, the provision of Article 534 of the Revised Penal Code will cover the case, and the

person accused will be liable under the provisions of the Penal Code.

SR. ARANETA: Señor Presidente.

EL PRESIDENTE: Señor Delegado por Manila,

SR. ARANETA: Parece ser que el argumento presentado contra la enmienda es infundado. Se arguye que aun ahora se puede enviar a la carcel a una persona que ha contraido una deuda mediante fraude. Si es ese el unico argumento, yo pediria que aprobamos la enmienda para aclarar que en esta jurisdiccion se puede enviar a una persona a presidio por deudas, si estas se han contraido mediante fraude. He consultado sobre esta enmienda con una autoridad en materia constitucional, el Profesor Cinco, y el es del mismo parecer. El cree que debemos dar amplio campo a la Legislature para que pueda senalar la pena de presidio para aquellos que contraen una deuda mediante fraude.

#### RECHAZAMIENTO DE LA ENMIENDA

ARANETA

EL PRESIDENTE: ¿Puede votarse la enmienda (Una mayoría: Si.) Los que esten a favor de la misma, que digan Si. (Varios Delegados: Si.) Los que esten en contra, que digan No. (Varios Delegados: No.) Se rechaza la enmienda.

Otro enmienda.

#### THE SECRETARY:

El Señor Araneta retiro la segunda parte de au enmienda, a sea, las palabras: "nor imprisoned for nonpayment of taxes unless he is willfully in default in the payment thereof."

MR. BINAG: Mr. President, I have an amendment.

THE PRESIDENT: Delegate Binag has the floor.

MR. BINAG: Gentlemen of the Convention: My amendment consists in inserting the words "assessed value of which shall not exceed five hundred pesos", after the word "property". As you know, the Code of Civil Procedure, as amended, provides exemption for a judgment debtor as to his homestead and the land necessarily included therein to the value of P500. In other words, a judgment debtor's property, to the value of P500, cannot be attached and sold at public auction but in the case of nonpayment of land taxes, as you know, provincial and municipal treasurers attach and confiscate property of all kinds belonging to the delinquent owner. At present, if a person is delinquent with taxes, all of his property is subject to attachment and being sold at public auction by the Government. The municipal treasurer can attach even the last net of a fisherman and the implements of a farmer.

MR. RANJO: Will the Gentleman yield?

THE PRESIDENT: What is the pleasure of the gentleman from Isabela.

MR. BINAG: Willingly.

MR. RANJO: The Gentleman would have the exemption limited to P500. Is it not a fact that there are many landowners who get the value of their property reduced so as to pay a smaller amount of tax? A situation may obtain in which a person's property is actually valued at P400 to evade the possibility of confiscation.

MR. BINAG: I want to say that the owner cannot do that without the intervention of the municipal treasurer or provincial assessor.

MR. RANJO: Yes, but is it not a fact that there are many cases of property owners who reduce the assessed value

of their property?

MR. BINAG: There may be such instance, but they are few because treasurers do not knowingly allow that irregularity.

I am willing to have the amendment modified in such a way that the total value of the property to be exempt will not be more than P500. But the point I want to bring home is to provide the owner with a certain piece of property so that he has something to live upon.

For this reason, Gentlemen of the Convention, I ask you to support this amendment.

MR. LAUREL: Mr. President and Gentlemen of the Convention: I want to say that there are four grounds for exemption in case of nonpayment of taxes. These grounds concern religion, education, charity and public policy. These are matters for ordinary legislation and probably constitute the best reason why we should not incorporate the amendment, notwithstanding the fact that there is a lot of sentiment in favor of it. But it is hard to determine in the Constitution whether the exemption is for religious, educational, and charitable grounds or for public policy, although, we have been very careful with respect to that in the ordinary legislation and all those provisions in the Administrative Code. The Committee, therefore, recommends deferentially to the Convention that the amendment be rejected.

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

SR. VENTURA: Acepto la enmienda, Señor Presidente.

LA ENMIENDA BINAG A LA ENMIENDA VENTURA ES RECHAZADA

EL PRESIDENTE: ¿Puede votarse la enmienda a la enmienda? (Varios

Delegados: Si.) Los que esten confor-mes con la misma, que digan Si. (Una minoria de Delegados: Si.) Los que esten en contra que digan No. (Una. mayoría de Delegados: No.) Se rechaza la enmienda.

SR. CUENCO: Señor Presidente, antes de que se pase a otro asunto, pido que se reeconsidere la enmienda presentada por el Delegado de Negros Occidental que prohíbe la prision por morosidad en el pago de cualquiera contribucion, excepto la cedula personal.

EL PRESIDENTE: ¿Cual es el objeto de la mocion de reconsideracion ¿ Ha habido cambio inmediato de opinion da parte de la Asamblea?

SR. CUENCO: El objeto de la mocion de reconsideracion es dar oportunidad a los miembros del Subcomite de Siete para demostrar el alcance de la enmienda.

EL PRESIDENTE: El Subcomite de Siete cede la ponencia de este asunto al Chairman dsl Comite sobre . Bill of Rights.

SR. SOTTO: Señor Presidente, si la Mesa nos lo permite, deseamos clarificar un punto. El Subcomite de Siete ha cedido al Delegado por Batangas, Senor Laurel, el privilegio de defender el Bill of Rights en general, en vista de ser el Presidente del Comite sobre Bill of Rights; pero esto no alcanza hasta el punto de admitir enmiendas. Queremos decir que, cuando haya algunos puntos del Bill of Rights cuya enmienda se proponga y el acepte la enmienda, quisiera el Subcomite por lo menos, ser oido para ,, ver si esta conforme.

MR. CUADERNO: Mr. President, I am speaking as a member of the Sub-committee. The Committee was not agreed as to whether or not to accept the proposition, and before the Gentleman from Batangas stood up, we agreed to leave the matter to him as far as some of the members of the committee were concerned.

EL PRESIDENTE: La Mesa, de todos modos, va a Bometer la mocion, si el Caballero de Cebu ha votado por la

mayoria. La mocion del Delgado por Cebu es que la Asamblea reconsidere su acuerdo con respecto a la enmienda del Delegado Perez.

SR. LIM: Para una cuestion de orden. Tengo entendido que el Caballero de Cebu no ha votado a favor de la enmienda.

SR. CUENCO: Si, Señor.

SR. LIM: El ha votado en contra.

SR. CUENCO: ¿Como le consta a usted que no he votado por la enmienda? Presisamente mi colega me recrimino.

EL PRESIDENTE: ¿Esta dispuesta la Asamblea a votar la mocion de reconsideracion?

SR. CUENCO: Solamente para ser oido el Subcomite, al menos su presidente.

EL PRESIDENTE: Parece ser que un miembro del Subcomite se ha levantado para decir que no es esa ta opinion del Subcomite de Siete.

SR. BAUTISTA: Señor Presidente, para una cuestion de orden. Recuerdo que en una ocasion votamos aqui sobre un asunto y despues de aprobado aquel asunto, un Delegado presento la mocion de reconsideracion y fue declarado fuera de orden por la Mesa, en vista de que la votacion no se habia hecho nominalmente. Ahora, creo yo que conforme con aquel acuerdo, el Caballero de Cebu no puede pedir la reconsideracion porque la votacion ho ha sido nominal.

EL PRESIDENTE: El caso a que se refiere. Su Senoria es el del Delegado Lim que no voto con la mayoria y el lo admitio asi ante la Asamblea, y se sometio a la Asamblea la mocion de reconsideracion.

MR. CLORIBEL: Mr. President, I have seen the question from a different angle. The reason for the recon-sideration asked is not simply because the Committee of Seven accepts but because yesterday we disposed of this question by recommending that taxpayers be not liable for imprisonment. Now this phrase, "nonpayment of poll taxes," subjects nonpayers of other taxes to imprisonment. That question was solved yesterday; by adding the poll taxes the idea conveyed is that other taxes are excluded from this provision of the Constitution.

THE PRESIDENT: The amendment was in order.

Creo que ganaremos mas tiempo sometiendo la mocion. Los que esten conformes con la mocion de reconsideracion 33 serviran decir Si. (Varios Delegates: Si.) Los que esten en contra, se serviran decir No, (Varios Delegates: No.) Division. Los que esten conformes tengan la bondad de le-vantarse. (Se levantan 50 Delegates.) Los que esten en contra, tengan la bondad de levantarse ahora. (Se levantan 51 Delegates.) por 51 votos negativos contra 50 afirmativos, se rechaza la mocion de reconsideration.

Lease la siguiente enmienda.

#### ENMIENDA DE LOS SRES. ARANETA Y OTROS

EL SECRETARIO:

En la pagina 4, suprimase todo lo que aparece en las lineas 1 al 20, y en su lugar insertese lo siguiente: "No person shall be imprisoned for debt, unless the same has been contracted by fraud nor imprisoned for nonpayment of taxes unless he is willfully in default in the payment thereof."

El Señor Araneta retiro la segunda parte de su enmienda, o sea, las palabras: "nor imprisoned for nonpayment of taxes unless he is willfully in default in the payment thereof."

SR. ARANETA: El Delegado por Manila Señor Lim, hablara a favor de la enmienda.

EL PRESIDENTE: Tiene la palabra el Delegado por Manila.

MR. LIM: Mr. president and Gentlemen of the Convention : The purpose of the amendment is to confirm one of the fundamental principles in taxation, as enunciated by Adam Smith, that there should be certainty in the manner of collecting taxes, the time within which taxes must be paid, and the kind of taxes to be paid. We have abounding decisions rendered by the United States Federal Supreme Court to the effect that retroactive taxation laws are allowed by the Federal Constitution. I am referring, Mr. President and Gentlemen of this Convention, to cases decided by the Federal Supreme Court, which held that the State statute in not brought into conflict with the constitution by the mere fact that it is retroactive in its operation. These decisions pertain to the cases of *Lim vs. Texas*, 184 U. S. Report, page 161; *Citizens National Bank vs. Kentucky*, 217 U. S. Reports, 442; *Wyoming etc., Land Co. vs. Minnesota*, 159 U. S. Reports, 537, this doctrine is confirmed or repeated in another Federal decision wherein it is held that retroactive income and land taxes shall not be unconstitutional.

Let us give a practical example. Actually the Gentlemen of the Convention know a tax is imposed upon the sale of palay, maiz, and other staple products. Supposing that the Legislature approves a law taxing even crops produced five years hack. Should this case happen, the law will not be unconstitutional according to the decisions I have cited. The effect will actually be confiscation of all the property of the farmers. It may come to that, because the added taxes will amount to as as much as the entire produce during the year in which the taxes have to be paid.

For all these reasons, Mr. President and Gentlemen of the Convention, I humbly pray that the amendment of Delegate Araneta be approved.

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

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

MR. LIM: Willingly.

MR. VENTURA: Is it not better if we strike out "for more than one year"?

MR. LIM: A one-year leeway is good enough for the government to raise funds that it needs, especially in urgent situations. There may be a critical 'period in which .funds have to be raised. If we consider that the subjects of taxation in these Islands are meager and that we have not sufficient sources from which taxes can be collected, we should not tie our hands in such a way as to curtail all .action with a retroactive effect.

MR. VENTURA: The Gentleman was speaking of the farmer. Suppose the farmer has disposed of all his products harvested the year before and now has no means of paying the taxes this year because of reverses in his business. He certainly cannot pay the taxes of the year before.

MR. LIM: The hardship, of course, of the farmer will not be as much if we do not allow a tax to go back five years. But if he could pay, say, P100 for the taxes corresponding to that year, he could as well pay P200, which is double.

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

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

MR. LIM: Willingly.

MR. GRAGEDA: For example, a new tax carries with it a penalty for nonpayment. Now, we want it to be retroactive for not more than a year. Is that not advisable?

MR. LIM: I can hardly agree with the Gentleman because, under the principles of taxation, there should be previous assessment before a fine can be imposed. There can be no default in payment unless there is assessment. The assessment must necessarily come when the law is approved, and if the law is approved one year after the assessment, one cannot be in default, so he will not be liable in any case to pay the fine the Gentleman spoke about.

EL PRESIDENTE: Ha expirado el tiempo del orador.

SR. NEPOMUCENO (R.): Señor Presidente, para una mocion privilegiada. Propongo que esta enmienda se considere cuando lleguemos a la parte referente al Poder Legislativo. Me parece que la enmienda no es propriamente una enmienda al Bill of Rights sino una limitation al poder de la Legislature, de dictar una ley sobre el caso.

SR. ARANETA: Señor Presidente, tengo una enmienda, pero, como se ha empszado ya el debate, perderiamos el tiempo si se considerase mas tarde. Sin perjuicio de insertar la enmienda en su lugar corrrspondiente,. creo que debemos considerar ya dicha enmienda.

SR. NEPOMUCENO (R.): Señor Presidente, retiro mi mocion.

MR. CRAFT: Mr. President, an amendment to the; amendment, to strike out the phrase "for more than one year", so that the amendment will stand as "No law shall, impose a tax retroactively."

SR. ARANETA: Señor Presidente, no tengo inconveniente en aceptar la enmienda.

EL PRESIDENTE: Lease la enmienda, tal como esti-enmendada.

EL SECRETARIO: Suprimase las palabras "for more than one year".

SR. SOTTO (F.) : Señor Presidente, para un turno en contra de la enmienda, tal como esta enmendada.

MR. LAUREL: Mr. President and Gentlemen of the Convention: So that there may be no misunderstanding in my advocacy of the Bill of Rights, I desire to be understood clearly that I would like to be in close understanding with the Sub-Committee of Seven, but I desire to announce that I am not bound by any foreign conviction and that whatever I say is mine and I refuse to submit to anything that I think is not within my conscience to say. Of course I submit to any decision or dictation of the Assembly. But I would rather be considered here as a member accidentally happening to be the Chairman of the Committee on the Bill of Rights and whatever I intend to say I will say in that capacity and in that benign spirit purely as a matter of my own personal opinion, and whatever is my personal opinion will not be submitted to the dictatorship of anybody or any committee in this Assembly.

Now, Gentlemen, I am sorry that I cannot accept the amendment in question, although there is a lot of fundamental reason behind it. The proposition lays down an important rule of taxation, and it seems to me that we can-not afford to lay down the various rules of taxation in our Constitution.

MR. CRAFT: Mr. President, for a question of order. I understand that Delegate Laurel is speaking as a member and is expressing his personal opinion. Now, who will accept the amendment, the author or the Committee?

THE PRESIDENT: Mr. Laurel is in order. He is entitled to express his opinion as Chairman of the Committee on the Bill of Rights.

Mr. CRAFT: But the draft was submitted, not by the Committee on the Bill of Rights but by the Subcommittee of Seven.

THE PRESIDENT: The Chair has decided.

MR. LAUREL: Mr. President, I want to announce that I am willing to be relieved, to cede the floor as Chairman of the Committee on the Bill of Rights, if that is deemed right. I have no personal attachment to the honor of being accidentally the humble Chairman of the Committee.

As I was saying, I am of the opinion that the amendment proposed by my esteemed colleague from Manila should not be accepted for the reason that it is a matter of ordinary legislation. It may be provided by a law of the Legislature without the necessity of incorporating it, assuming the provision as proper for insertion in the Bill of Rights. By the amendment, we invade the field of taxation in a special manner as regards the execution of the details. In the Administrative Code, for instance, there is something to that effect, although it is not exactly in point. I think, if it is really desired to provide such a thing in our jurisdiction, it will be advisable to incorporate that in an act enacted by the Philippine Legislature. Otherwise, we may be accepting other rules of taxation which will not be advisable to do now that we are formulating the organic law which, I understand, should be as brief as possible.

SR. GUZMAN (Ant) : Senor Presidente, he registrado un turno en contra, y quisiera consumirlo.

EL PRESIDENTE: Tiene la palabra el Delegado por Cagayan.

DISCURSO DEL SR. GUZMAN (ANTONIO)

SR. GUZMAN (Ant.) : Señor Presidente y Caballeros de la Convencion: Hubiera prEferido no molestar vuestra benevola atencion; pero permitidme que haga uso de la palabra para expresar algunas consideraciones en contra de esta enmienda. Bajo la actual legislacion que rige sobre impuestos, por ejemplo, territoriales, se sigue la practica deque en tratando de propiedades rurales, siempre flue un dueño se haya descuidado o por mala fe no haya puesto de alta su propiedad, se le imponga un impuesto retroactivo de dos años atras, y con respecto a las mejoras el da un ano atras. Yo, companeros de la Asamblea, he sido el primero en oponerme a que un contibuyente, sea cual fuere la clase de impuesto, sea despojado, porque el Gobierno se convertiria en mas usurero que los mismos-usureros que persiguen a sus deudores. Pero, Señores, en este caso debemos considerar la situation economica del Gobierno. Me parece justo que un propietario que por descuido o mala fe, no haya puesto su propiedad de alta, y haya disfrutado de ella hasta el dia en que se acordo de ponerlo de alta, me parece justo, repito, que siquiera en parte, reintegre al Gobierno lo que habia disfrutado del terreno.

La actual legislacion sobre impuestos me parece intachable y por estas consideraciones impetro de vuestra atencion su dehido estudio, y pido que se rechace la enmienda. Muchas gracias.

EL PRESIDENTE: ¿Que dies el Comite?

SR. SOTTO: (F.) : El Comite no acepta la enmienda, y a menos que haya otro Caballero que quiera hablar a favor el Comite va a consumir un turno.

SR. ARANETA: He anunciado que iba a cerrar el debate.

EL PRESIDENTE: Tiene la palabra el Delegado por Manila.

DISCURSO DEL SR. ARANETA

SR. ARANETA: Señor Presidente, Compañeros de la Convencion: El argumento aducido por el distinguido Delegado por Batangas, Señor Laurel, en contra de esta propuesta enmienda, es el de no ser un precepto propio de la Constitucion y que unicamente es material de legislacion. Siento tener que disentir en este particular del distinguido Delegado por Batangas. Precisamente se ha dicho que la Declaracion de Derechos es un cuerpo de articulos cuyo objeto es defender los derechos individuales contra posibles abusos del Gebierno. Uno de los posibles abusos del Gobierno por parte de la Legislature seria el crear impuestos con efecto retroactive.

Actualmente, en Filipinas, que yo sepa no se ha creado hasta ahora un impuesto con efecto retroactivo, y por eso no vemos la necesidad de poner este precepto en nuestra Constitucion. Pero en los Estados Unidos ha habido muchas leyes tributarias que se han estado aplicando con efecto retroactivo, y su constitucionalidad, es decir, si esto se puede hacer bajo la Constitucion, es una materia que ha dividido a los tribunales, y la jurisprudencia no esta muy clara con respecto a este particular.

Y a renglon seguido, hay por lo menos 15 citas de jurisprudencias. Sin embargo, ultimamente se ha notado una reaccion contraria a esta doctrina. Tanto es asi que en el asunto del *Blougeis vs. Holding*, la Corte Suprema Federal ha dicho que no se puede crear un impuesto con efecto retroactivo.

De tal modo, Señores, que aqui tenemos un estado de cosas en virtud del cual no se sabe; cual es la ley fija con respecto a este asunto. Estamos escribiendo una Constitucion para Filipinas, y quisiera que aclarasemos este punto de vital importancia. Algunos han creido que no se puede crear un impuesto con efecto retroactivo, por ser contrario al principio que prohíbe "ex post facto laws". Esto no es cierto, pues el principio de "ex post facto" se refiere unicamente a las leyes penales.

MR. KAPUNAN: Senor Presidente, para una cuestion de orden. Sin cuestionar la bondad de la enmienda. Parece que no es el Bill of Rights su lugar, porque no se trata de un derecho individual.

MR. PEREZ (J.) : Mr. President.

THE PRESIDENT: Gentleman from Negros Occidental.

SPEECH OF MR. PEREZ (J.)

MR. PEREZ: (J.) : Mr. President and Gentlemen of the Convention: The amendment consists in suppressing the clause which provides that no law impairing the obligation of contracts shall be enacted. This clause finds its genesis in the provision of the Ordinance of 1787 which covers the American territory. It should be noted that in the great charter of English liberty, the Magna Charta, this principle is not mentioned. Even today England does not recognize this principle which is unknown in English jurisprudence. When the American Constitution was drafted, the provisions of the Ordinance of 1787 were proposed to be incorporated in it. The Convention at Philadelphia gave much importance to the clause just referred to. In fact, that clause was not debated on and The Federalist only makes mention of it in two instances.

Allow me to call the attention of the Delegates to this Convention that this limitation that no law shall be enacted which shall impair the obligation of contracts is not directed against Acts of Congress; it is directed only against Acts by State Legislatures. This prohibition is further found in Section 10 Article I of the Constitution of the Federal Union. I maintain that this clause is a surplusage in our Constitution because it is already included in the clause which provides protection through due process of law.

It should also be noted that although in the Federal Constitution there is no mention of the fact that Congress is prohibited from enacting laws which impair the obligation of contracts, yet Congress cannot enact such laws because the Fifth Amendment provides that no person shall be deprived of life, liberty or property without due process of law. The Supreme Court of the United States, in a long series of cases, has laid down the doctrine that contractual rights are properly protected by the due process of law clause of the Constitution. The same doctrine was upheld in the *Hepburn* case which every student of constitutional law knows. The Supreme Court of the United States, in deciding that case, held that, although there is no provision in the Federal Constitution which prohibits Congress from enacting laws impairing the obligation of contracts, the act of Congress involved was invalid and unconstitutional because it impaired the obligation of contracts and amounted to the deprivation of a property right without due process of law. The said doctrine was laid down in another case on which the Supreme

Court ruled that Congress cannot interfere with private rights. This is indispensable, and in the Trepp case which involved a contract between certain Indians of Oklahoma, a subsequent Act of Congress was held to be a violation of the constitutional clause in question. There are many similar cases decided by the Supreme Court of the United States. The reason why the Federal Constitution provides that no State shall pass any law impairing the obligation of contracts is that at the time of the adoption of the Federal Constitution, there was no provision in the State constitutions to the effect that no person shall be deprived of life, liberty or property without due process of law.

It is true that the Jones Law provides that no law impairing the obligation of contracts shall be enacted. But the very author of the law says that it is defective. And, Gentlemen of this Convention, the protection afforded by the Bill of Rights in the Jones Law is not the same in scope as that afforded to the Citizens of the United States by the Bill of Rights found in the Federal Constitution. There is a great difference between the protection afforded by the Jones Law and that provided by the Federal Constitution. While, under the Federal Constitution, the protection of due process of law is imposed on all departments of government—legislative, executive and judicial—under the Jones Law, it is imposed only on the legislative department.

THE PRESIDENT: The time of the Gentleman has expired.

MR. LABRADOR: Mr. President, I would like to speak against the amendment.

THE PRESIDENT: The Gentleman from Zambales has the floor.

#### SPEECH OF MR. LABRADOR AGAINST THE AMENDMENT

MR. LABRADOR: Mr. President and Gentlemen of the Convention: I am opposing the amendment simply because I do not believe that the State has the right to interfere with the freedom of contract between private individuals. If we suppress this provision in our Constitution, it will be difficult for this country to attract capital or to invite business concerns to engage in helping develop the country. The Gentleman from Negros Occidental has stated that there is no such provision in the Federal Constitution of the United States. That is true because contracts are not within the sphere of the Federal Government. Contracts between States and individuals are matters between States and individuals.

Gentlemen of the Convention: Relating the history of the clause on contracts, a renowned author in a recent article, states thus:

"The period preceding the Constitutional Convention was one of financial instability and radicalism. A number of states had passed laws altering or discharging private contracts — a performance which disturbed credit and commerce. Therefore, the Convention, composed largely of representatives of the monied and propertied classes, with little discussion, inserted this contract clause in the Constitution. (The Constitution, Magruder & Claire, pp. 139-140.)"

If we cut out this provision in the Constitution, it will be possible for the Legislature to enact laws discharging the obligations created by individuals in a contract. I wish to state that, with respect to a contract between private individuals and the State, as a charter granted by the Government, the Legislature must be given the power to repeal or modify it at any time, because public interest is involved. But if only private interests are involved, it is dangerous for a country like ours to do that.

Mr. President and Gentlemen of the Convention: I might call your attention to the fact that this provision was first applied to the famous Dartmouth College case by the Supreme Court of the United States, which allowed that a charter cannot be amended, because it is between the State and an individual and that to amend it implies an

impairment of obligation of contracts. Now, I have registered my amendment granting the Government the right to repeal or amend any existing contract between the State and an individual or individuals, but with respect to a contract consummated entirely by private persons it is improper to do that because there will be instability of our private rights. The Legislature might do everything that involves the rights of corporations and private individuals

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

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

MR. LABRADOR: With pleasure, Mr. President.

MR. PELAYO: Will the elimination of the provision about impairment of obligation of contracts remedy in some way the land problem in Mindanao, because the Legislature can pass a law cancelling or declaring null and void all those contracts between Filipinos and foreigners, the Filipinos leasing their lands to foreigners for a number of years?

MR. LABRADOR: I agree with the Gentleman from Davao that it will be possible to do that. But is it fair? Besides, as I said, if the State contracts obligation with a private individual, that is a different thing. The State should always have the power to alter its contracts because those administering the State may have been defrauded or may have been influenced or bribed to grant a franchise or grant some individuals certain rights.

MR. PELAYO: Is it not a fact that our laws must be suited to, or must reflect the actual conditions, existing in the Philippine and that such conditions should not be contrary to the interest of the State? Does the Gentleman believe that it is fair for the Legislature to adopt such laws?

MR. LABRADOR: At this time and during the period of transition, with a consequence of instability in our economic life, it is absolutely necessary to preserve the obligation of contracts. With respect to the land problem in

Mindanao, even if the clause is inserted in the Constitution, the State, by its police power, will still have the right to alter or repeal an existing contract. There is no need of suppressing the clause in order to remedy the situation that the Gentleman from Davao has mentioned.

MR. CONFESOR: Mr. President, may I speak against the amendment?

THE PRESIDENT: The Gentleman may proceed.

MR. CONFESOR: Mr. President and Gentlemen of the Convention: The elimination of the clause is essential for the purpose of facilitating legislation involving the principle and spirit of social justice. If we maintain this paragraph under the Bill of Rights, we will be erecting a serious obstacle to the enactment of laws for the promotion of the welfare of the people, especially the wage earners and the small farmers. With the clause in our Constitution, contracts between laborers and employers may be effected whereby the laborers are compelled to work 18 hours a day for 30 centavos. There is no law prohibiting that now, and it is easy to imagine that employers are in a position to compel their laborers to sign contracts of the kind I have stated. Furthermore, with the retention of the clause in the Bill of Rights, we will prevent enactment of law requiring employers to provide sanitary conditions for their laborers, because if the laborers accept to work under insanitary conditions, then the State will have no right to interfere, for the clause will be cited: "The State shall not enact any law impairing the right of contracts."

EL PRESIDENTE: Tiene la palabra el Delegado por Negros Oriental.

### DISCURSO DEL SR. LOPEZ (V.)

SR. L6PEZ (V.): Señor Presidente, Señores: No se extranen de que yo, por primera vez os dirija la palabra, porque yo soy mas bien un hombre de accion que de palabras. Creo que la Convencion debe sostener este precepto, porque de lo contrario seria muy peligroso para los negocios. Yo estoy muy familiarizado con este precepto, porque llevamos años haeiendo campana contra los contratos de los plantadores y las centrales. Los plantadores hemos reclamado que los contratos que hemos firmado hace dieciseis anos con las centrales, son contratos leoninos que el Gobierno debe anular. Pero las centrales, acogindose a la Ley Jones, han mantenido que estos contratos deben prevalecer. Suponganse qus no estuviese en nuestra Constitucion este precepto, nosotros, los hacenderos, con la campafia que hemos estado haeiendo contra las centrales por mas de diez años a esta parte, hubieramog con segnido anular los contratos con las contrales; pero yo mismo, que soy hombre de negocios, os puedo asegurar que si los contratos no tienen el valor que la Legislatura los quiera dar, no habra ningun capital que quiera eatablecerse para algun negocio, porque hace dieciseis anos, Senores, euando firmamos los contratos, nosotros mismos, los hacenderos, fuimos a los capitalistas en busca de capital para establecer esas centrales. Entonces no sabiamos que andando el tiempo las ganancias que producirian serian grandes; pero he aqui, Senores, que hemos visto que en cinco anos esas centrales ganaron mas de veinte por ciento y el agricultor no tanto, y por eso hemos estado reclamando. Si suprimimos de nuestra Constitucion este precepto, la consecuencia seria que no habria capital para establecer negocios. He dicho.

SR. LOCSIN: Señor Presidente, quisiera supliear a loa compañeros de esta Asamblea que se me permita decir dos palabras por ser el coautor.

EL PRESIDENTE: En ese caso la Mesa propondria que haya dog turnos adicionales por la afirmativa y dos por la negativa. ¿Hay alguna objecion? (Silencio.) La Mesa no oye ningima. Aprobada. Tiene la palabra el Delegado por Iloilo, Señor Lutero.

### DISCURSO DEL SR. LUTERO

SR. LUTERO: Señor Prsidente, Caballeros de la Convencion: Me levanto no para pronunciar un discurso, sino solamente para manifestar ante la Convencion algrunos hechos que justifican la supresion da este parrafo de nuestro precepto constitucional. Siento tener que manifestar, ademas, que en estos mementos, el que ha tenido el honor de dirigirnos la palabra antes, el Honorable Vicente Lopez, pertensce a la misma. region que la mia. Sin embargo, para refutar algunos hechos que creo debemos desmentir ante esta Asamblea, qui;ro decirles que no estoy conforme con muchos de los puntos de vista del Delegado por Negros Occidental que es de mi misma provincia de Iloilo.

El precepto constitucional que se trata de suprimir, tengo entendido que no solamente se refiere a los contratos entre plantadores y centrales, como acaba de manifestar el Honorable Vicente Lopez. Tengo entendida qua este prjcepto tiene por objeto los contratos de usura, los contratos entre patronos y obreros, los contratos entre terratenientes y centrales. Sin embargo, la Octava Legislature, si mal no recuerdo, intento aprobar una ley cediendo al control de la Comision de Servicios Publicos la regulacion de los contratos entre ccntrales y terratenientes; pero aunque se aprobo la ley se declare anticonstitueional. En la Novena Legislatura se presento tambien un proyicto de ley que trataba de ejecutar los contratos entre los plantadbres y las centrales y fue aprobado por la Legislatura; pero cuando se elevo a Malacañan, para la firma del Gobernador General, fue vetada sobre el fun-damento de que era anticonstitucional. Cada region, cada grupo, tiene su manera de sentir y de pnsar sobre las mismas cosas, y, posiblemente, un Delegado que pertene. ce al grupo de los llamados magnates del dinero, no este confcrnu con la supresion de este precepto constitucional; pero si se trata de los Delegados que han venido a esta Asamblea para interpretar solamente el comun sentir, estos no pueden menos sino votar por la supresion de este prec;pto constitucional. Si aprobamos esta enmienda, suprimiendo este precepto constitucional,

podemos estar seguros de haber hecho una labor magna en favor de nuestros electores puesto que habremos interpretado el sentir, no solamente de centenares, sino de millares de individuos que están a favor de la eliminación de este precepto, a fin de que puedan ajustar sus contratos con las centrales y con sus patronos.

EL PRESIDENTE: Ha expirado el tiempo del día. Tiene la palabra el Delegado por Leyte, Señor Punan.

#### DISCURSO DEL SR. KAPUNAN

SR. KAPUNAN: Señor Presidente, Caballeros de la Convención: Empiezo señalándoles los flecos de mis mangas para decir que no pertenezco a la categoría de ricos, porque acaba de decirse aquí que solamente los ricos son los que se oponen a la supresión de este precepto. Si me he atrevido a levantarme hoy, precisamente en contra de mis sentimientos de respeto y consideración a uno de mis mejores amigos de esta Convención, que sostiene esta enmienda, es para decir algunas ideas que tengo sobre el particular y aclarar algunos conceptos jurídicos sobre lo que quiere decir "impairment of contractual obligation," que no me han sonado bien. Debo decir, y esto es muy importante, que lo del "actual obligation" no se refiere a futuros contratos, ni solamente a contratos ya ejecutados; se refiere a derechos que otros contratantes puedan adquirir mediante contrato. Hay varias clases de contratos. Hay contratos que dan derechos, que no son exactamente contractuales, desde el punto de vista constitucional. Los contratos simples pueden ser nulos, pueden ser anulables. Nulos en cuanto a la capacidad de las personas, y nulos en cuanto al objeto del contrato, y no tenemos necesidad de la Constitución para anular esos contratos. Pero aquellas leyes que proveen a una parte de los derechos sustanciales para conseguir el remedio que la legislación les quiere privar, constituyen una obligación contractual, si la obligación la contrae el mismo Estado. Hay obligaciones que el Estado mismo no puede repudiar, aunque el mismo las haya contraído, por ejemplo, el sueldo ya acumulado de algún empleado. El Estado puede renegar a ese empleado del servicio, porque el contrato de servicio no es contractual; sin embargo, la obligación contraída por el Estado respecto al sueldo es una obligación contractual y el Estado, cuando ejerce todo su poder de policía, no puede, en absoluto, bajo ninguna ley, bajo ninguna Constitución, privarle de ese derecho.

Se dirá que esto es una merma de la soberanía, pero la soberanía se ejerce solamente en interés de la salud del pueblo. Cuando se trata de un derecho particular, este no se ejerce; al contrario, se ejerce para la protección del individuo.

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

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

SR. KAPUNAN: Sí, Señor.

SR. PERFECTO: ¿Querría ilustrarnos el orador acerca de su opinión del efecto que tendría la aprobación de este precepto constitucional sobre la nueva ley referente a las ventas a plazos?

SR. KAPUNAN: Ya he dicho que la obligación contractual, es decir, el "impairment of contractual obligation" no se refiere a futuros contratos, ni siquiera a los existentes, mientras no se haya derivado ningún derecho positivo. Su Señoría y todos los compañeros de la Convención deben tener en cuenta que hay derechos adquiridos y hay que llamamos la expectativa de derecho. El "impairment of contractual obligation" no se refiere a los derechos en expectativa sino a los derechos que pueden ser ejecutados, y estos son los derechos que la ley protege.

SR. PERFECTO: Si se mantiene este precepto, ¿no cree Su Señoría, que se podría discutir la constitucionalidad de la Ley Recto sobre ventas a plazos?

SR. KAPUNAN: Según. Si la ley priva a cualquiera de las partes contratantes del remedio substancial para obligar el cumplimiento del contrato, sería anticonstitucional. De otro modo no lo sería.

SR. PERFECTO: Le pregunto sobre un hecho concreto.

SR. KAPUNAN: No sabemos los terminos de esa ley. Si esa ley se refiere al privilegio de Una de las partes a un derecho ya nacido, entonces seria anticonstitucional; pero si ese derecho no es mas que una expectation de derecho no seria anticonstitucional.

SR. PERFECTO: Le voy a recordar a Su Señoria que la Ley Recto sobre ventas a plazos regula dichas ventas, y, en cierto modo, anula derechos adquiridos de los vendedores.

SR. KAPUNAN: No hay ningun derecho adquirido, mientras no se ejecute el contrato. Ademas, hay que tener en cuenta que el "impairment of contractual obligation" tiene una relacion intima con el "due process of law" y con el poder de policia. Cualquiera ley razonable que apruebe la Legislatura, en el ejercicio de su soberania, esta por encima de las obligaciones siempre que se trata de obligaciones ya contraidas. Es todo.

SR. LOCSIN: Senor Presidente.

EL PRESIDENTE: Caballero de Negros Occidental.

### DISCURSO DEL SR. LOCSIN

SR. LOCSIN: Señor. Presidente, Caballeros de la Convencion: Porque esta es una Asamblea Constituyente estamos aqui dando cima a una labor creadora. La soberania en manos del pueblo, le capacita para volcar en la obra integral del Gobierno, todaa sus ansiaa de justicia, libertad y democracia. Si juzgo los empenos iniciales, me parece que nos falta aquel vigor de los entusiasmos espontaneos. A veces, me pregunto a mi mismo, si la influencia de cuatro siglos de esclavitud pudo haber determinado en nosotros un "inferiority complex", que nos asusta tirar por la borda ds la nave de ia nacion, viejos cargamentos del imperialismo, para que, distendidas sus velas por los nuevos vientos, ligera cruce los mares del porvenir.

Cuantos aqui defendieron este esbozo de Constitution, no regatearon sus favorea para un gobierno nacional fuerte. Les habia escuchado con simpatia creyendoles ada-lides de ese liberalismo que ha sido compelido, segiin Russel, a desarrollar la regulacion estatal de las industrias y las finanzas. Me confunden, sin embargo, cuando propugnan por un precio vasto de intereses creados, cer-candoto con inexpugnables murallas de Una Declaration de Derechos, que a nuestro humilde parecer, limitaran la utilidad del propio gobierno como poder ordenador de la vida de la nacion. En esta Declaracion de Derechos se preceptaria.

"No se dictara ninguna ley que menoscabe una obligation contractual."

No hemos encontrado replica de esta disposicion en las disposiciones constitucionales inglesas; y mucho menos en las Constituciones de la post guerra. Es copia de una disposicion de la Ley Jones, limitativa de las facultades de la Legislatura Filipina, que son en ultimo analisis, l del pueblo.

El Estado de Commonwealth y la Independencia, diez años despues, haran nuevas y bien perfiladas las situaciones politicas y determinaran una desorganizacion en los valores economicos de la nacion, que solo un y Gobierno national fuerte podra reordenarlos.

En mi provincia, por los contratiempos del azucar, el salario bajo a 0.30 diarios, sin comi da. Las plantaciones dejaron de acomodar a muchos obreros de Antique, Iloilo, Cebii y Bohol. Esta paralizado el comercio de carabao de la Bicolandia y Romblon. Han disminuido las importaciones de arroz. Inaugurado el Commonwealth y con esta disposicion dei parrafo XI del Titulo III de este esbozo de Constitution, ¿como se reajustara nuestra Ley de Independencia a la imposicion ds una tarifa gradual despues del quinto ano del periodo de transicion? El Gobierno creemos que se vera impotente, por la prohibicion de la Constitution a la Asamblea National, de dictar leyes que

alcancen a las obligaciones contractuales.

Se me ha dicho, que aun con esta prohibicion, el Go bierno, usando de sus poderes de policia, podra intervenir de una manera efectiva. ¿Quien puede dar a esta Convencion la necesaria garantia? ¿Que peso tendria un enunciado abstracto sujeto a pronunciamientos contradictorios para contravenir un dictum tan inequívocamente .constitucional? Se ha dicho tambien que, suprimida esta disposicion, las obligaciones contractuales hoy en vigor estaran respaldadas por el parrafo primero de este Titulo. Si esto es verdad, en interes del laconismo, debe .suprimirse la disposicion que nosotros impugnamos.

En mi intervencion sobre la totalidad, habia dicho que un sentido de prudencia aconseja la supresion de esta disposicion. Que la Constitucion se calle sobre este particular, para que siguiendo el modo de pensar del Caballero de Cebu, Señor Briones, de este silencio, nuestros altos tribunales de justicia pueden construir nuevos postulados que satisfagan los anhelos del porvenir, cuyos pormenores no podemos atalayar en el presents, dadas las limitacionea humanas.

Señor Presidente, quiero traer aqui la cita que Diego Hidalgo hace de la discusidn que sobre las teorias de Benjamin Constant tuvo Fernando La Salle. "Se ventilaron en ese gran pleito dos principios esenciales: el principio del valor de la seguridad juridica, el principio .del valor del progreso. Benjamin Constant habia s:ntado el principio de la seguridad juridica diciendo que una ley nunca debe tocar a derechos preexistentes en el sentido de vulnerarlos, de deseonocerlos, de hacerlos morir, y frente a esa inudita teoria, frente a esa singular teoria, se levandt la mente autorizada, la figura agigantada de "Fernando LaSalle y dijo que ante ella era necesario cerrar las puertas al mundo porque el progreso moriria y el mundo entero se convertiria ipso facto en una necropoliss".

Y es que los tiempos que hoy estamos viviendo sonbien distintos de los ya pasados. Hoy, como afirmo Artigas Arpon, "esta en evolution plena y constants la moral, y el derecho que es un circulo concentrico de aquella, va viendo como se achica su radio a medida que el de la mo-ral se va extendiendo indefinidam:nta En esta diferencia de radios de la moral y el derecho esta la cantera de la cual sale el nuevo Derecho constituido del porvenir."

Si hemos de creer al academico Senor Briones, Delegado por Cebu, este esbozo de Constitucion es cen-trista, con ligeras inclinaciones hacia la derecha, que equivale a decir que el mismo lleva mucho esqueleto de la historia, como el llama a los postulados conservadores que concibieron los politicos de los siglos XVIII y XIX. Asi es este esbozo, un documento reaccionario hecho para dar las espaldas a la liiz, como el hombre de Platon. Nosotros dscimos, que si la Constitucion que hemos de aprobar esta llamada a servir los imperativos del porvenir de este mundo que siempre esta cambiando, de ser centrista, que lo sea; pero, con manifiestas inclinaciones hacia la izquierda, para que tenga carne viva de frescas realidades.

Senor Presidente y Caballeros de la Convencion: los que van resueltos por los senderos de la vida, tienen que caminar de frente, mirando el porvenir. El presents, con su orden social y economico en bancarrota, esta confiando en los gobiernos fuertes, aquel caudillaje dinamico capaz de disciplinar todos los valores de la nacion, no para derivar un dominio de clase, sino un verdadero concierto de intereses que diria el Presidente Roosevelt. Los queen Filipinas tienen fe en la democracia y en las instituciones populares, pugnaran por un gobierno poderoso, que sea el arcoiris que prometa a todos los filipinos una vida en que las dadivas del bienestar y la felicidad constituyan un patrimonio comun, gracia del Cielo que sea impartida por todos a. todos, sin las odiosas e irritantes desu gualdades sancionadas por una sociedad egoista.

Para votar por la supresion de la referida disposicion, se necesita creer en el pueblo, tener confianza en las instituciones que son hechuras de ese pueblo, y reafir mar la fe de la virtualidad de la democracia. Yo os digo que creo en la mayoria de edad y en juicio prudente de nuestro pueblo! He dicho.

MR. NEPOMUCENO (R.): Mr. President.

EL PRESIDENTE: Senor Delegado.

### DISCURSO DEL SR. NEPOMUCENO (R.)

MR. NEPOMUCENO (R.): Mr. President, the distinguished Gentleman from Negros Occidental, Delegate Locsin, began his eloquent speech by saying that the work of this Constitutional Assembly should be creative. I agree with him, and for that reason I stand firmly against destroying one of the strongest pillars of the Constitution supporting the rights of the citizens of the Philippines. I think the suppression of the provision under debate will not be creative but destructive of the best interests of the Filipino people. The question squarely presented before this Assembly is whether we should treat the obligation of contract, as a mere plaything or whether this Constitutional Assembly should stand on the proposition that the obligation of contracts has attached to it, the spirit of sanctity.

The argument has been advanced here that if the provision were retained in the Constitution, it would be impossible for the Legislature to pass social legislation. But I say, Mr. President, that such is not the case. The interest of the laboring classes, or the welfare of those who are not well-to-do in this country, is covered and protected by the all-pervading police power which affect all the provisions of our Constitution.

MR. FLORES: Mr. President, for a point of information.

MR. NEPOMUCENO (R.): After my speech, I yield to the Gentleman.

(Continuing.) As stated well by the Gentleman from Zambales, Professor Labrador, it is necessary to retain this provision in our Constitution for the stability of conditions here. At this precise moment when we are about to launch into the dangerous sea of world affairs, an infant Republic or Commonwealth, like ours, should dedicate all its efforts to the building of a strong economy. Capital should be invited, and the individuals composing the citizenry of this country should know, whenever they enter into business transactions, just where they stand. They should know beforehand what their rights and obligations are. If they understand that whatever obligations they have now or expect from the other party to the contract, whatever rights the contract gives them, may some, day, without their consent or against their will, be changed or abolished by the Legislature, the citizens of this country will not be encouraged to Launch into business enterprises which are to the interest of the Filipino people in general.

I am very sure, Mr. President, that while it is true in very rare cases that laws passed by the Legislature may be interpreted by the courts as unconstitutional because they impair the obligation of contracts, there may also arise a situation in which legislation favors not the poor people, the laboring class, but the groups of big business interests who have the money and influence to overwhelm the Legislature. The constitutional provision in question is found in the Constitution of the United States. It has stood there for years. It is found in our Organic Act, having stood there for more than a quarter of a century, and it has been found useful and effective to promote the general welfare of the inhabitants of this land. Why, I ask, should such a provision be removed now?

What will be the implication, Mr. President, if this constitutional provision is suppressed? It is known all over the world that the provision is based on the principle of the sanctity of contracts. The implication, therefore, will be that the wise Members of the Constitutional Assembly have changed their minds, have turned their backs to the principle that contracts are sacred and that they now consider the obligation of contracts as a mere plaything of the Legislature,

With that in view, Mr. President, I respectfully beseech the Members of this Constitutional Assembly to turn down the proposed amendment

EL PRESIDENTE: ¿Que dice el Delegado por Batangas?

SR. LAUREL: No aceptamos la supresion de ese articulo.

EL PRESIDENTE: ¿Desea Su Senoria hablar en nombre del Comité.

SR. BARRION: Quisiera tener el privilegio de dirigir algunas preguntas al Caballero de Batangas, Señor Laurel.

EL PRESIDENTE: ¿Desea contestar el Caballero de Batangas?

SR. LAUREL: Si la Asamblea me lo permite, no tengo inconveniente.

EL PRESIDENTE: ¿Lo permite la Asamblea? (Varias voces: Si.) Puede dirigir sus preguntas el Caballero de Batangas, Señor Barrion.

SR. BARRION: Su Senoria debe de estar enterado de la ultima ley de la Legislatura limitando la production del azucar. ¿No cree Su Senoria que esta ley afectara altamente a los contratos de molienda entre el plantador y la central? ¿No cree Su Senoria que seria anticonstitucional?

SR. LAUREL: No creo que sea anticonstitucional una ley de esa naturaleza. Mr. President, the impairment of the obligation of contracts, as has been stated here time and again, is subject to the police power. I think the Legislature can handle the situation.

SR. BARRION: De manera que Su Senoria cree que en cuanto tenga efecto en Filipinas la Ley Jones Costigan, y, por consiguiente, la ley acaba de aprobar la Legislatura, y que creo lo va a aprobar el Gobernador General, ¿lo hara el Gobierno de Filipinas en el ejercicio del "police power"?

MR. LAUREL: It can be sustained, in my own personal opinion.

EL PRESIDENTE: ¿Esta dispuesta la Asamblea a votar la enmienda?

SR. PERFECTO: Propongo que la votacion sea nominal.

EL PRESIDENTE: La Mesa desea ver si hay suficiente numero que apoye la votacion nominal. Los que esten conformes con la mocion, que tengan la bondad de levantarse. (Varios Delegados se levantan.) Hay suficiente numero. Lease la lista. Los que esten conformes con la supresion de esta clausula, se serviran decir Si al ser llamados sus nombres, y los que no, se serviran contestar No.

SR. NAVARRO: Yo quisiera explicar mi voto, si la Mesa me lo permite.

EL PRESIDENTE: No podemos permitir la explicacion del voto, en vista de que los turnos se han limitado.

**EL SECRETARIO:**

Señor

Señor Abaya..... No

"

Abella..... Ausente

"

Abordo ..... Ausente

"

Abrigo ..... Ausente

"

Adduru..... Si

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Albero..... Si

"

Aldeguer..... Si

"

Alejandrino..... No

"

Alkuino..... No

"

Alonto..... No

"

Altavas..... Si

"

Ancheta..... Ausente

"

Araneta..... No

"

Arcenas..... Si

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Arellano..... Si

"

Artadi.....

Si

"

Arteche..... .Ausente

"

Aruego..... No

"

Balili..... Si

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Baltao..... Si

"

Banaga..... Si

"

Barrion..... Si

"

Bautista..... Si

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Beltran..... Ausente

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Benitez..... No

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Benito..... No

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Binag..... No

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Bocar..... No

"

Bonto..... Ausente

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Borbon.....

Si

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Braganza..... Ausente

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Briones..... No

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Buendia..... Ausente

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Bueno..... Si

"

Buslon..... No

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Cabarroguis..... Ausente

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Cabili..... Si

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Calleja..... No

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Canonoy..... No

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Caram..... No

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Carin..... Si

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Carino..... No

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Castillejos..... No

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Castillo..... No

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Castro..... No

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Cea..... No

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Chioco..... No

"

Cinco.....  
Ausente

"

Clarín..... No

"

Cloribel..... No

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Conejero..... No

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Confesor..... Si

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Conol..... No

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Crespillo..... No

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Cruz, C..... No

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Cruz, R..... Ausente

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Cuaderno..... No

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Cuenco..... Si

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Curato..... No

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Delgado.....  
Ausente

"

Diez..... Si

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Dikit..... No

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Divinagracia..... Si

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Duguiang..... Ausente

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Encarnacion..... Ausente

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Enriquez..... Si

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Escareal..... No

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Esliza..... No

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Espeleta..... Ausente

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Fakangan..... No

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Fernandez..... Si

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Flores..... Si

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Francisco..... No

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Gaerlan..... No

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Galang.....

No

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Ganzon..... No

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Grafilo..... Ausente

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Grageda..... No

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Guarina..... Ausente

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Guevara..... Ausente

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Gullas..... No

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Gumangan..... Ausente

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Gumban..... Ausente

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Gutierrez..... Ausente

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Guzman (Alej.)..... Ausente

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Guzman (Ant.)..... No

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Guzman (B.)..... No

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Guzman (J.)..... Si

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Hernaez..... Ausente

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Hontiveros.....

No

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Inting..... No

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Irving..... Ausente

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Jose..... No

"

Joven..... Ausente

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Jumawan..... No

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Kapunan..... No

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Kintanar..... No

"

Labrador..... No

"

Lapak..... Si

"

Laurel..... No

"

Ledesma..... Ausente

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Leonardo..... No

"

Lesaca..... Austente

"

Liboro..... Ausente

"

Lim..... No

"

Lizardo.....

Si

"

Lizares..... Si

"

Locsin..... Si

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Lopez (E.) ..... No

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Lopez (V.)..... No

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Lorenzana..... Ausente

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Lorenzo..... No

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Lutero..... Si

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Maglanoc..... Ausente

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Mansueto..... Si

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Marabut..... Si

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Maramara..... No

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Martinez (M.)..... Si

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Martinez (R.)..... No

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Maza..... Si

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Melendez..... Si

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Melendres.....

No

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Millar..... No

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Moldero..... No

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Moncado..... No

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Montano..... No

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Montesa..... No

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Montilla..... Ausente

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Montinola..... No

"

Morales..... Si

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Mumar..... No

"

Munoz..... Si

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Navarro..... No

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Nepomuceno (J.)..... No

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Nepomuceno (R.)..... No

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Nepomuceno (V.) ..... No

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Niere..... Si

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Ocampo.....  
No

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| Orense.....     | Si      |
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| Ortega.....     | Si      |
| "               |         |
| Ortiz (L.)..... | No      |
| "               |         |
| Ortiz (M.)..... | No      |
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| Osias.....      | Ausente |
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| Ozamis.....     | Ausente |
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| Palma.....      | Si      |
| "               |         |
| Paredes.....    | Ausente |
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| Pelayo.....     | Si      |
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| Perez (J.)..... | Si      |
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| Perez (T.)..... | Si      |
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| Perfecto.....   | Si      |
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| Piang.....      | No      |
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| Pio.....        | No      |
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| Prieto.....     | No      |
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Quirino (D.)..... No

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Quirino (E.).....  
Ausente

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Rafols..... Si

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Ramos..... No

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Ranjo..... No

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Reyes (G.)..... No

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Reyes (J.)..... Ausente

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Ribo..... No

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Ricohermoso..... No

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Rivera..... No

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Romero..... No

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Romualdez..... No

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Roxas..... Si

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Saguin..... Si

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Salazar (A.)..... Si

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Salazar (V.).....  
No  
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Salumbides..... No  
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Sanchez..... No  
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Sandiko..... No  
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Sandoval..... Si  
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Santos..... No  
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Sanvictores..... No  
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Sevilla..... No  
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Singson Encarnacion..... Ausente  
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Sinsuat..... No  
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Sison..... Ausente  
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Sobrepena..... No  
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Sotto (F.)..... No  
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Sotto (V.)..... No  
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Suner..... Si  
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Surban..... No  
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Tanopo.....  
No  
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Tulawi..... No  
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Velasco..... No  
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Ventenilla..... No  
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Ventura..... No  
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Villamor..... Si  
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Villanueva..... Si  
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Villarama..... Si  
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Villareal..... Si  
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Vinzons..... No  
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Ybanez..... Si  
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Ysip..... Ausente  
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Yusay..... Ausente  
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Zavalla..... No  
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Zialcita..... No

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Zurbito..... Ausente

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EL PRESIDENTE.....

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