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### APERTURA DE LA SESION

Se abre la sesión a las 4:45 p.m., bajo la presidencia del Hon. Claro M. Recto.

EL PRESIDENTE: Léase la lista de Delegados.

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

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

### APROBACIÓN DEL ACTA

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

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

### APROBACIÓN DE LA RESOLUCION No. 97

SR. VILLARAMA: Señor Presidente, pido que se lea el proyecto de Resolución No. 97 que he presentado y que obra en poder del Secretario.

EL PRESIDENTE: Léase el proyecto de resolución.

### EL SECRETARIO:

P. R. C. C. No. 97

Presentado por los Delegados Navarro y Villarama

### R E S O L U C I Ó N

ENCOMENDANDO A LOS PRESIDENTES DE COMITÉ LAS PONENCIAS PARCIALES SOBRE EL PROYECTO DE CONSTITUCIÓN.

Se resuelve, Que las ponencias parciales sobre el proyecto de Constitución se encomienden al Presidente del Comité respectivo en cuanto a aquellas partes del proyecto que literal o sustancialmente se han tomado del informe o recomendación de dicho Comité.

EL PRESIDENTE: ¿Puede votarse el proyecto de resolución? (Varios delegados: Sí.) Los que estén a favor de dicha resolución tengan la bondad de decir Sí. (Varios delegados: Sí.) Los que estén en contra, sirvanse decir. No. (Silencio.) Aprobada.

### APROBACIÓN DE LA RESOLUCION No. 98

SR. BUENDIA: Señor Presidente, pido que se lea el Proyecto de Resolución No. 98, que obra en poder del

Secretario.

EL PRESIDENTE: Léase el proyecto de resolución.

**EL SECRETARIO:**

Res. No. 98

Introduced by Delegates Buendia and Lesaca.

RESOLUTION EXPRESSING THE PLEASURE OF THE CONVENTION OVER THE SUCCESS OF THE OPERATION PERFORMED UPON THE ILLUSTRIOUS FILIPINO LEADER, HONORABLE MANUEL L. QUEZON.

Be it resolved, To express, as it is hereby expressed, the pleasure with which the Members of the Constitutional Convention have received the news of the success of the operation recently performed in the United States upon the illustrious Filipino leader and spokesman, the Honorable Manuel L. Quezon.

Be it resolved, further, That this resolution be transmitted by cable to the Honorable Manuel L. Quezon in the United States by the President of the Convention.

EL PRESIDENTE: ¿Está dispuesta la Asamblea a votar el proyecto de resolución?

MR. ESCAREAL: Just for a point of information. I would like to ask the authors if it is possible to send a resolution personally and directly, instead of passing it through the Convention.

EL PRESIDENTE: Los que estén conformes con el proyecto de resolución, tengan la bondad de decir Sí. (Varios delegados: Sí.) Los que esten en contra, sirvanse decir No. (Silencio.) Aprobado.

Está en orden ahora la consideración del proyecto de Constitución.

**CONSIDERACIÓN DEL PROYECTO DE CONSTITUCIÓN**

SR. GULLAS: Para una información. Mr. President, before we proceed with the discussion of the Constitution, will a small motion to insert an amendment with regard to the plebiscite on woman suffrage be out of order? This motion should have been submitted last night, but after the Convention had disposed of the suffrage question, very many were happy and very many were sorry, but everybody was relieved of the burden. It seemed that the Assembly was fed up with too much speech-making and discussion on the question, and there was no more order after the Lopez resolution had been disposed of. So I took my time, and I now ask the Chair whether a motion of the nature I have just stated is in order.

EL PRESIDENTE: Se podrá presentar la enmienda cuando se discuta esa parte de la Constitución. Tiene la palabra el ponente del Proyecto.

**INFORME ORAL DEL PONENTE, SR. SOTTO(F.).**

SR. SOTTO (F.): Señor Presidente, el Comité de Ponencias, más que con honor y respeto, con verdadero placer, comparece hoy ante esta respetable Convención, con el Proyecto de Constitución que ha sido elaborado en gestión tan laboriosa como tardía. En una organización de 87 Miembros, como es el número total de los Miembros del Comité de Ponencias; en una organización de 87 hombres libres, devotos del pensamiento libre y cultivadores de las propias ideas y principios, no era ciertamente una tarea fácil que todos llegasen a un acuerdo. Es natural, mas que natural, conveniente, y más que conveniente, necesario, que existan diferencias de opinión entre unos y otros, y siquiera para recordar la vieja sentencia de que del choque entre el metal y el pedernal surge la hermosa luz que alumbra a todos, yo digo que por ser natural, conveniente y necesaria, la labor del Comité de Ponencias ha sido,

necesariamente tambien, trabajosa hasta el punto de que no es un secrete la impaciencia que naturalmente ha despertado la tardanza de la labor del Comité de Ponencias, no sólo entre los Miembros de la Convención, sino también en la misma opinión publica. Pero Roma no se construyó en un día, y a creer lo que dicen los escritos sagrados. el mismo Dios, con su omnipoteneia, hubo de necesitar cierto número de días para completar la creacion. ¿Qué mucho, pues, que nosotros, humildes criaturas, con limitados alcances, proviniendo de diferentes regiones, educados en varias escuelas, con principios no siempre paralelos; a veces diametralmente adversos, que mucho, pues, repito, Señor Presidente, que el choque de opiniones ocurriese con mucha frecuencia en las deliberaciones del Comité de Ponencias?

Largas semanas empleó el Comité de Ponencias en pleno, para estudiar todos y cada uno de los reports sometidos por los varios Comités de esta Convención. Hubo necesidad de prestar a tales reports toda la atencion a que eran acreedores. Esos reports eran obra de Comites de la Convencion, especialmente destinados para conseguir que cada report del Comité contuviera una síntesis, por decirlo así, acabada de las diferentes ideas de todos y cada uno de los Miembros componentes de cada Comité. Después, en el transcurso de los dias y de las semanas, el Comité de Ponencias habia llegado a una conclusion,—que no sé si calificarla de triste o desafortunada,—de que era necesario que un grupo del mismo Comité de Ponencias tomase de un modo especial, bajo sus hombros, la tarea de perparar por lo menos un proyecto de Constitución que pudiera ser base para ulteriores estudios y considerations, no sólo por parte del Comité de Ponencias sino también por parte de la misma Convención; y así el Comité de Ponencias, obrando dentro de sus facultades, constituyó un Subcomité de Siete Miembros a los ctiales se había encargado el expreso trabajo de preparar un proyecto de Constitución. A las primeras de cambio, vióse enseguida el acierto de aquel medio. Los trabajos del Subcomité de Siete se aceleraron. Había lo que se llama en inglés expediency. Por otro lado, el Subcomité había recibido la inapreciable ayuda de otro comité de Miembros del mismo Comité de Ponencias, constituídos en consejeros técnicos del Subcomité de Siete. No es para ser narrado, señores, ni muchos menos tasado el valor de la ayuda que ese comité de técnicos ha dado al Subcomité de Siete. Con sus luces, con su ciencia, con su experiencia, y, sobre todo con su buena voluntad, el comité de técnicos ha sido algo así como un faro para el Subcomité de Siete, en plena noche de profunda oscuridad. Las recomendaciones del subcomité de técnicos aliviaron considerablemente el peso del trabajo del Subcomité de Siete, y si a estas dos circunstancias buenas añadimos otra, como es la constante, la amable, la activa ayuda prestada al Subcomité de Siete y al comité de tecnicos, por el mismo Presidente de esta Convention, no es nada fatuo decir que la labor del Subcomité de Siete, en la preparati6n del proyecto de Constitución, si tenía que ser escabrosa necesariamente por la índole del asunto, fue por rieles pianos y fáciles con la ayuda, como he dicho, del subcomité de técnicos y del Presidente de la Convención. Llevada a cabo la labor del Subcomité de Siete, con tan valiosos soportes, al seno del Comité de Ponencias en pleno, era natural que surgieran las mismas dificultades que habían ocurrido en los primeros dias de sesiones de dicho Comité. Otra vez las ochenta y siete cabezas — máquinas intelectuales, moviéndose y funcionando animadas todas por el deseo de tener un proyeeto de Constitución, que no solamente satisfaga a nuestro pueblo, sino que además no pueda encontrar ningún obstáculo en los Estados Unidos, a quienes, como todos saben, tenemos necesariamente que enviar el proyecto de Constitución.

¿Íbamos a repetir la manera que habiamos adoptado en los comienzos, de entrar a debatir línea pov línea, palabra por palabra, coma por coma, el proyecto de Constitución preparado por el Subcomité de Siete? Hubiese sido necesario volver a las andadas y estropear todo el trabajo del Subcomité. Teníamos todos, como creo que tienen todos y cada uno de los Miembros de la Convención, in mente, la idea de que es necesario acelerar el trabajo de la Constitución, porque de ello depende el pronto establecimiento del Commonwealth, porque del pronto establecimiento del Commonwealth depende el que com ie nee cuanto antes el período transitovio de diez años. Debemos demostrar positivamente que estamos preparándonos para la independencia. Mientras no haya

Commonwealth, no se contarán los diez años del período transitorio. Mientras no tengamos una Constitución, aprobada por el Presidente de los Estados Unidos y sancionada en plebiscito por nuestro pueblo, tampoco puede comenzar el Commonwealth. He ahí porqué el Comité de Ponencias, después de un estudio que han hecho sus Miembros del proyecto preparado por el Subcomité, optó con gran acierto por aprobar dicho proyecto en principio y enviarlo así a la Convención para que esta Convención, soberana autoridad en esta materia, sea quien formalmente estudie el asunto. ¿Que sacabamos con debatir por días, por semanas, en el Comité de Ponencias, para después repetir los mismos debates en el "floor" de la Convención? Los ochenta y siete Miembros del Comité de Ponencias no son la Convención, no son siquiera una mayoría de la Convención, y si era poco menos que imposible, en vista de las diferentes opiniones e ideas, soldar en una sola las opiniones de los ochenta y siete Miembros del Comité de Ponencias, es claro que reteniendo el proyecto en el seno del Comité de Ponencias para un debate largo, no hubieramos hecho mas que perder el tiempo dentro del Comité de Ponencias para luego reanudar los mismos debates, los mismos reparos, las mismas enmiendas, en el seno de la Convención en pleno. Por esto, Caballeros de la Convención, porque el Comité de Ponencias prefirió aprobar en principio el draft que hoy tenemos ante nosotros, y someterlo respetuosamente a la Convención para su ulterior consideración y resolución, naturalmente, también es cierto que la obra no es perfecta, ni siquiera semiperfecta. Manos pecadoras al fin, lo han cosido; manos humanas, y lo que a unos pudiera parecer bien, a otros, pudiera parecer de otra manera. Y es natural que, en el seno de la Convención, este proyecto de Constitución tenga que pasar por el tamiz de una crítica, de un estudio, antes de que dicho proyecto sea finalmente aprobado. Pero creo, personalmente por lo menos, que la Convención tuvo un acierto ayer al aprobar ciertas reglas especiales que han de regir en la discusión del proyecto de Constitución. Son reglas que no solamente no constriñen a nadie, no privan a nadie de su derecho a discutir el proyecto en conjunto o en sus detalles. Pero, al mismo tiempo, señala ciertos límites a la discusión que, indudablemente, facilitarán mucho el camino final del proyecto.

Esto del debate general parece una cosa convenida en la Convención, aunque, desde luego, no lo es en los Parlamentos. Un debate general, a nuestro entender, conforme está consignado en las reglas especiales, viene a ser algo así como una revista general de todo el proyecto. General comment, general review, crítica, en el mejor sentido de la palabra. No es la crítica callejera en la que todo consiste en buscar lunares; es la crítica del hombre maduro y estudioso que lo mismo halla flores en el camino como también espinas. Es el estudio, digámoslo así, de todo el edificio, de toda la obra, para ver si ella, con arreglos ulteriores o sin ellos, puede llenar la necesidad para la cual se ha preparado. Supongo que doce turnos para un examen general del proyecto de Constitución, son más que bastantes para que cada cual pueda exponer sus puntos de vista generales sobre el proyecto. Si a esto se añade después el período destinado a las enmiendas, si las hubiere, evidentemente podemos decir que dentro de! escaso tiempo de que disponemos, dentro de la natural prisa que debemos sentir por la aprobación del proyecto, dentro de la necesidad de que no retardemos ni un solo día el despacho de este asunto, creo, repito, que la Convención tiene garantizada suficiente libertad de acción para lo que quiera disponer del proyecto que hoy tenemos en nuestras manos.

Quiero volver, Señor Presidente, a mencionar los reports de los diferentes Comités de esta Convención. Es evidente que hay reports que no han podido ser insertados, palabra por palabra, concepto por concepto, dentro del proyecto de Constitución. Habiendo sido independiente el trabajo respectivo de cada uno de los Comités, tenía necesariamente que sentirse la falta de una conexión, relación, concatenación entre un report y otro. No podía existir la unidad que es necesaria en esta clase de trabajos. Y por esto, no sería difícil el que entre un report y otro hubiese ciertos conflictos. Pero es un honor que debe acordarse a los varios Comités de la Convención el hecho de que sus reports han servido como base principal en la preparación de este draft por el Comité de Ponencias. Si los Compañeros tienen un poco, no de paciencia, pero si de benevolencia, no será difícil que tal o cual precepto, tal o cual proposición que a primera vista pareciera haber desaparecido, pueda hallarse en el

proyecto. Puesto que hay que ser francos cuando se habla entre Compañeros, tengo que decirlos o debo tener la lealtad de decirlos, que también algunos preceptos no han podido ser incluidos en la Constitución. Y no ciertamente porque faltasen méritos a tales preceptos; el Comité de Ponencias es el primero en reconocer que tales proposiciones constitucionales son excelentes, aunque el Comité de Ponencias difiriera del Comité que había recomendado dichos preceptos en cuanto a la propiedad de incluirlos como precepto constitucional. En una organización tan grande como la nuestra, viniendo como todos venimos, por primera vez, a preparar nuestra Constitución, ansiosos como estamos de ser librados, quejosos como lo estamos de nuestra vida no libre liasta ahora, los impulsivismos habrían de ser inevitables. Parecía como si quisiéramos curar todos nuestros males solamente por medio de la Constitución. Éste es el punto de vista que en la mayor parte de los casos, el Comité de Ponencias ha tenido en cuenta al dejar de incluir en el pioyecto de Constitución algunos de los preceptos que hemos encontrado en los reports de los varios Comités. Buenos preceptos, buenas ideas, pero, evidentemente, o hubiera alargado de modo considerable la Constitución o sería mejor que, por no tratar de cuestiones fundamentales, se dejaran para la legislación ordinaria. No hemos perdido de vista un punto cardinal en las deliberaciones del Comité de Ponencias: la necesidad de evitar todo peligro que implicase la más remota posibilidad de que el proyecto de Constitución nos sea devuelto con algunos reparos del Presidente de los Estados Unidos. No es que pretendiésemos enviar al Presidente de los Estados Unidos una obra acabada; pero, aun repitiendo lo que dije antes, teniendo en cuenta que cualquier retroceso en la aprobación de la Constitución, habría necesariamente que rebotar en el pronto establecimiento del Commonwealth, tengo miedo de decirlos que nos hemos sentido demasiado cautos hasta tal punto, que en casos de duda, hemos preferido asegurar, hasta donde fuera posible, la no devolucion del proyecto a la Convención.

Voy a permitirme decir, Señor Presidente. que, dadas las prisas que hemos tenido, los del Subcomité de Siete, en la preparacion del draft, contados como estaban nuestros días para el trabajo, entorpecidos como lo fuimos por el tifón, no ha habido tiempo de ordenar muy bien la colocacion de las disposiciones contenidas en esta Constitución, y es probable que los compañeros encuentren algunas disposiciones puestas indebidamente, erróneamente en un sitio en vez de estar en otro. Podremos, sin embargo, mantener la existencia de esas disposiciones sin perjuicio de que si la Convención lo quisiera se traslade tal o cual precepto a otro sitio de la misma Constitución.

MR. SANTOS: Mr. President . . .

SR. SOTTO (F.): Puesto que estamos bajo reglas especiales, Señor Presidente, yo ruego tambien la especialidad de no dar ninguna informacion sino despues de mi report. I am very willing to answer the Gentleman after my report.

(Prosiguiendo.) En el mismo Subcomité de Siete tampoco ha habido unidad de pareceres, aunque, como es natural en toda organización democrática, nos hemos regido por la regla de la mayoría. Por mí, puedo decir, que algunos preceptos contenidos en este draft los he combatido en el seno del Subcomité; algunos preceptos que no están incluidos en este proyecto, yo hubiese querido que fueren incluidos, y lo mismo que este vuestro servidor, ha pasado con los demás compañeros, pero tenemos que respetar el principio de la organización del Subcomité, y no podíamos los del Subcomité de Siete, comparecer ante el Comité de Ponencias divididos, mordiéndonos los unos a los otros a cuenta de tal o cual voto disidente. Y por esto, sacrificamos cada cual un poco, y llegando al eterno remedio para todas las dificultades, que es la transacción, es como el Subcomité de Siete ha podido suscribir este report y presentarlo al Comité de Ponencias. De todos modos, como he dicho antes, todavia tenemos amplio tiempo, amplísima oportunidad, durante el debate de este proyecto, y en el período de las enmiendas, para quitar cualquiera imperfección, resolver cualquiera duda, quitar o incluir cualquier precepto que se quiera. Hemos tenido natural-mente, en obediencia al fallo de la Convención, que introducir un cambio radical en el proyecto impreso: me refiero, Caballeros, a la parte legislativa, y en cuanto se refiere al sistema de las dos Camaras, o sistema

unicameral. Votado por la Convención que debemos tener un gobierno unicameral, el Comité de Ponencias, su Sub-comité de Siete, no habría de pretender desobedecer lo acordado por la Convención. Yo he votado por un régimen bicameral, pero he suscrito este informe. ¿Por qué? Porque es la voluntad de la Convención, es la voluntad expresada solemnemente en una votación de esta Convención, de que tuvieramos solamente una Cámara. Es probable también, que, por virtud de dicho cambio, algunas partes de la Constitución necesiten más reformas que las que hemos introducido. No debe olvidarse que habríamos presentado el proyecto a base de una legislatura bicameral y como la votación ordenada por la Convención por un régimen unicameral afectaba al capítulo referente al rerao legislativo, era necesario dar un recorrido a todo el proyecto para hallar la parte que quedaba afectada por el cambio de sistema. Yo comparo un proyecto de Constitución con una gran máquina: el conjunto, no se puede cambiar un capítulo sin que no se pueda aflojar un tornillo sin que ello influya ni repercuta en todo el cuerpo del proyecto. Hemos buscado atentamente dónde pudo haber afectado el cambio en el proyecto de Constitución, como consecuencia del establecimiento del sistema unicameral; pero no será extraño que la Convención misma, con el cuidado con que todavía esperamos estudiar este proyecto, no será extraño, repito, que la Convención halle otros tornillos que apretar a causa del aflojamiento que se ha hecho en otros.

Estando abierto todavía el presente proyecto de Constitución para un debate general, quedando para más tarde, según nuestras reglas especiales, el período de enmiendas, el Comité cree que con las ideas generales que hemos expuesto ahora, mas el texto mismo de la Constitución que desde hace varios días está en manos de la Convención, tenemos asunto bastante para entrar ya a fondo, en el estudio del Proyecto; y el Comité estará siempre atento a cualquiera observación, reparo, objeción o enmienda que la Convención tuviere a bien disponer.

Caballeros: Los del Comité no venimos a comparecer con orgullo, ni tampoco con miedo, ante la Convención. No somos arrogantes, porque reconocemos que toda la autoridad está en manos de la Convención. No hemos hecho otra cosa más que preparar un material que pueda ser objeto de madura consideración por parte de la Convención en pleno. No comparecemos con miedo, porque sabemos que estamos ante una Convención de hombres libres, donde cualquiera diserepancia de ideas no es óbice para mantener nuestras relaciones mutuas y porque estamos convencidos de que, por encima de todo, conscientes del deber que nos ha impuesto la aceptación del honroso cargo de Delegados a la Asamblea Constituyente, estamos convencidos, repito, de que la Convención solamente tendrá por norma un solo propósito: tener pronto una Constitución para las Islas Filipinas, a fin de que, con esa Constitución como llave se abran de par en par las puertas del templo de la libertad completa para nuestro país. He dicho.

MR. SANTOS (E.): Mr. President, will the gentleman yield?

EL PRESIDENTE: El tiempo del orador ya ha expirado. ¿Tiene la Asamblea inconveniente en que se le concedan cinco minutos más? (Varios delegados: Sí.)

Puede formular sus preguntas el Delegado por Nueva Ecija y el orador contestar si lo desea.

MR. SOTTO (F.): Willingly.

MR. SANTOS (E.): Will the Chairman of the Committee on Sponsorship inform us as to whether the report of the Committee on Provincial and Municipal Governments had been considered?

SR. SOTTO (F.): Ese es uno de los puntos que, como ya he anticipado antes, el Subcomité de Siete ha creído conveniente dejar completamente en manos de la Legislatura. No hay nada, señores, tan movable, tan inestable como las organizaciones pequeñas de nuestro gobierno. Si pusieramos algo sobre organizaciones municipales o provinciales en la Constitución y a los dos meses de establecido el Commonwealth, nos encontraríamos con que tales organizaciones deberán cambiarse; ello sería difícil si no imposible porque tendríamos que enmendar la

Constitución. Ese es el motivo porqué ciertas materias que no son estrictamente de principio o fundamentales, hemos creído, como todavía seguiraos creyendo, que es mejor dejarlas a la Legislatura.

MR. SANTOS (E.): Does not the Gentleman think that the general precept regarding the organization of provincial and municipal governments will not be out of place in our Constitution as in other constitutions?

SOTTO (F.): Will the Gentleman please give me an example?

MR. SANTOS (E.): I call the attention of the Chairman of the Committee on Sponsorship to the Constitution of Spain. There are certain provisions referring to provincial and municipal governments. They are also found in the constitutions of France and other countries, like China. Does not the Gentleman, think that such general principles will not be out of place in our Constitution?

SR. SOTTO (F.): Ya he dicho que el principal motivo que ha tenido el Subcomité para no tocar nada en la Constitución que se refiera a la organización de las pequeñas corporaciones del gobierno provincial y municipal, ha sido la posibilidad a que la presente organización no sea buena. De hecho, en la Legislatura se han presentado muchos proyectos que demuestran que nuestra presente organization municipal y provincial requiere algunas reformas, y teniendo en cuenta que cualquiera enmienda a la Constitución que se formalice durante el Commonwealth tendrá neesariamente que pasar por la aprobación del Presidente de Estados Unidos, y teniendo en cuenta también el relative coi-to tiempo de diez años para dedicarse a esos menesteres, seria pre-ferible que el gobierno del Commonwealth dedique su principal atención, la atencion national a Ins problemas, también rigurosamente naeionales dejando a la Legisla-tura todo lo referente esas cosas que podemos llamar cosas de casa.

SR. LAPAK: Para unas preguntas al Delegado por Cebu, señor Presidente.

EL PRESIDENTE: Puede contestarla el orador, si le place.

SR. SOTTO (F.): Con mucho gusto.

SR. LAPAK: Si mal no he entendido a Su Señoría, ha dech:rado que el Comite ha creido conveniente poner en la Constitución solamente los puntos fundamentales. ¿No cree Su Señoria que la declaración sobre autonomía provincial y municipal es un principio fundamental?

SR. SOTTO (F.): Pudiera ser; sí, Señor; pero hay este reparo, no una objeción: una mera enunciacion de un principio no es mandatoria. Si Su Señoria me permite la libertad de truncar un poco el lenguaje, yo diré que es una disposición negativa. No obliga a la Legislatura dictar una ley. Es el sentir de la Convención que debe haber una mayor autonomía municipal, una mayor autonomía provincial. Bueno, y qué? ¿Cuál sería el efecto de esa disposición en el terreno de la práctica?

SR. LAPAK: Sabemos que se dice por el Gobierno que es un principio el de que las provincias y municipios sean autónomos; sin embargo, en la práctica vemos que esa autonomia es solamente de palabra, pero no de hecho. ¿No cree su Señoria que seria mejor para corregir esa anomalia, poner aqui ese principio de respetar la autonomia provincial y municipal?

SR. SOTTO (F.): ¿En qué forma querría Su Señoria que se pusiera eso?

SR. LAPAK: Mediante la inclusión de algún precepto.

SR. SOTTO (P.): Por ejemplo.

SR. LAPAK: Bueno. He hecho la pregunta, porque Su Señoria dice que no se ha puesto eso, porque no es un principio y que solamente se han puesto principios fundamentales. Entonces vamos ....

SR. SOTTO (F.): En realidad de verdad, admito que la cuestión de la autonomía municipal y provincial es un principio en un gobierno democrático; all right, pero la cuestión por discutir ahora es si nuestras provincias y municipios no gozan de suficiente autonomía, y donde mejor se podrá debatir eso para su debida consideración es en la Legislatura y no aquí en esta Convención.

SR. LAPAK: ¿No cree Su Señoría que sería mejor que pusieramos precisamente ese principio fundamental en nuestra Constitución, para que la anomalía que observamos en la práctica, pueda ser cortada de raíz? Porque la verdad es que, de hecho, los municipios y provincias no tienen autonomía, porque la autoridad está casi absorbida, acaparada y centralizada por un Departamento del Gobierno nacional.

SR. SOTTO (F.): Voy a contestar a Su Señoría de dos maneras: primera, ya he dicho que una disposición de carácter general como adivino que es el plan de Su Señoría, sería poco menos que letra muerta; sería un párrafo de puro lujo dentro de la Constitución porque no contendría una disposición mandatoria.

SR. LAPAK: Y si presentáramos esa disposición mandatoria para su inclusión en este proyecto, ¿no tendría el Comité la bondad de aceptarla?

SR. SOTTO (F.): No cree Su Señoría qué sería mejor hablar del caso cuando hayamos llegado a ese punto?

SR. LAPAK: Está bien, y muchas gracias.

MR. BOCAR: Mr. President, I want to inquire of the Chairman of the Committee on Sponsorship with regard to the provincial and municipal governments, because, as contemplated in the draft, we will have an election sometime next year, possibly May, June, or July. The proposition is that the provincial and municipal officials hold their offices under the Election Law and that their terms will expire in 1938. The draft of the Constitution states that there will be an election this year for insular officials, so that we will have an election for insular and another for provincial and municipal officials. Does not the Gentleman believe that, as a matter of convenience, the Convention should set a date for the election of all officials—insular, provincial and municipal?

SR. SOTTO (F.): Es cuestión de opinión. Puede pa-recerle a Su Señoría conveniente; puede parecer a otros caballeros, inconveniente; pero, en términos generales, yo digo lo siguiente: hemos fijado el tiempo para los legisladores por la relación que tiene con la elección del Presidente del Commonwealth, un cargo enteramente nuevo que tendremos en el nuevo gobierno, y en cuanto a si habrá o no elecciones para los otros funcionarios del gobierno, parece que sería mejor leer la ley Tydings-McDuffie, y allí encontraremos algunas disposiciones sobre ese punto.

MR. BOCAR: Would the Committee accept an amendment to the effect that we insert a provision in the Constitution providing that the election next year be general, not only of insular but also of provincial and municipal officials ?

MR. SOTTO (F.): I prefer to wait for that period when amendments are to be presented.

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

THE PRESIDENT: The Gentleman from Cebu may answer.

MR. SOTTO (F.): With pleasure.

MR. CABILI: In the draft of the Constitution, there are no provisions as to the municipalities and provinces specially organized for the maintenance of their status quo. Under our Organic Law, some of the provincial governors of these specially-organized provinces are appointed by the Governor General. Now, during the transition period from the present Government to the Commonwealth, what will become of the governors of these

specially-organized provinces appointed by the Governor General since, in the Constitution as drafted, no mention is made as to how their position shall be fixed?

SR. SOTTO (F.): Creo que bajo el plan que tenemos, se mantiene el actual de elegir, aunque dejando a la Legislatura la facultad de hacer electivos los puestos de legislador correspondientes a las provincias especiales: Sin embargo, tengo la impresion de que la pregunta del compañero es mas bien una preparacion para una enmienda que probablemente quiere proponer. Si Su Señoría, dice que tal disposicion, no existe en el proyecto y que cree que debiera existir, me va a perdonar que le diga que el camino no es una interpelacion, sino una proposicion de enmienda.

MR. CABILI: Would the Gentleman be willing to accept an amendment tending to better this situation so that in the event of...

MR. SOTTO: When amendments are to be presented, that will be the proper time to see what the Committee decides.

MR. CABILI: I ask the question because, if there is a fundamental issue, there is no necessity of presenting an amendment. But, in the absence of a satisfactory measure, we wish to present an amendment.

MR. SOTTO (F.): The Gentleman, may be sure that if the amendment is right the Convention will approve that.

SR. ABELLA: Señor Presidente, para una pregunta al ponente.

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

SR. SOTTO (F.): Sí, Señor.

SR. ABELLA: Quisiera saber por qué la Constitución no habla nada sobre el lenguaje oficial.

SR. SOTTO (F.): Es otro asunto que hemos creído que debe dejarse a dos factores; al factor tiempo y al factor de la conveniencia, además de las circunstancias. De todos modos, la Legislatura puede adoptar eso; pudiera ser que, después de diés años, ni el inglés ni el castellano, sean el lenguaje oficial, y si pusiéramos desde hoy una disposición adoptando como lenguaje oficial tal o cual idioma, nos encontraríamos que para derogar esa disposición, tendríamos primeramente que enmendar la Constitución. El Comité ha creído que, en lo posible, deben evitarse las ocasiones en que sea necesario enmendar la Constitución.

SR. SISON: ¿Podría Su Señoría mformarme de si la idea que sugiere es que se hagan las elecciones para cargos provinciales y municipales?

SR. SOTTO (F.): No sugiero nada. Sugiero lo que esta en el draft. Parece que está claro el proyecto.

SR. SISON: Me refiero al Comité,

SR. SOTTO (F.): El Comité se atiene a lo que está en el draft y no sugiere nada.

SR. SISON: El Comité opina que no debe haber elecciones con respecto a cargos provinciales y municipales.

SR. SOTTO (F.): La Ley Tydings-McDuffie define eso. Es inutil que el Comité pretenda decir nada, cuando hay una ley mandatoria a la cual estamos amarrados.

SR. SISON: Comprendo, pero lo que quería saber de Su Señoría es si preferiria que sólo hubiese elecciones para cargos insulares nada más.

SR. SOTTO (F.): Es inútil que prefiramos, cuando hay una ley congresional que dispone....

SR. SISON: ¿No abriga Su Señoría alguna esperanza de que se pueda enmendar esa ley?

SR. SOTTO (F.): Si vamos por el camino de las esperanzas, lo mejor es no esperar para no desengañarnos.

SR. SISON: Supongamos que esta Convención insertara alguna disposición en la Constitución haciendo que las elecciones sean generales, ¿cree Su Señoría que eso procedería?

SR. SOTTO (F.): Yo no sé lo que dispondría la Convención. Presente Su Señoría la disposición y la Convención resolverá.

SR. SISON: Yo me atengo a la recomendación, si es que hay alguna.

SR. SOTTO (F.): ¿Ha leído Su Señoría el draft?

SR. SISON: Si, Señor.

SR. SOTTO (F.): ¿Qué dice?

SR. SISON: No dice nada.

SR. SOTTO (F.): Luego no recomienda nada.

SR. SISON: Es una recomendación negativa, porque sólo habla de elecciones para cargos insulares, y se calla en cuanto a las elecciones para los cargos provinciales y municipales.

SR. SOTTO (F.): Su Señoría busca una recomendación y dice que no la encuentra en el draft; entonces le digo que el Comité no recomienda nada.

SR. JOSÉ: Su Señoría ha dicho que el Gobierno es igual a una máquina y la falta de un tornillo puede estropear su funcionamiento. Yo quisiera preguntar si se ha omitido una pieza: el asiento del Gobierno, porque veo que aquí no, se designa el asiento del Gobierno. Creo, pues, que el Gobierno que vamos a organizar será un Gobierno ambulante.

SR. SOTTO (F.): No estando fijada por la ley congresional la capital del país y no habiendo nada en nuestra Constitución sobre el particular es claro que se mantiene Manila como capital, aunque, naturalmente y personalmente, me gustaría que la capital del Archipiélago fuera alguna vez Baguio, que es el distrito del Caballero.

SR. JOSE: Pero, ¿no cree Su Señoría que es esencial determinar el asiento del Gobierno del Commonwealth?

SR. SOTTO (F.): Voy a repetir la misma contestación que dí a otro compañero. Esto de las capitales es muy variable, sobre todo, en un país como el nuestro que es pequeño. Es preferible no atar demasiado las manos al Gobierno. De todos modos, éste es un asunto que puede ser resuelto en cualquier tiempo por la Legislature.

MR. BUSLON: Just for information. I would like to know if this Commission does not necessarily carry with it the permanent offices and permanent personnel.

SR. SOTTO (F.): La Legislación designará el personal que necesite la Comisión Permanente, así como la cuantía, de sus sueldos y el tiempo que va a trabajar.

Constituimos una organización permanente, que en cierto modo vendrá a desempeñar las funciones del Senado,

MR. BUSLON: But once these members of the National Assembly are elected to the Permanent Commission, will they represent two offices as members of the Assembly and as members of the Permanent Commission?

MR. SOTTO (F.): Yes, sir.

MR. BUSLON: Do I also understand that they will have one office as such members of the Assembly and another office as such members of the Commission?

SR. SOTTO (F.): Supongo que la Legislatura o la Asamblea Nacional que se menciona en la Constitución, nombrara entre otras cosas, un comité de arreglo y, de local, y eso correspondera a ese comité.

MR. BUSLON: Does not the Gentleman believe that the creation of this Permanent Commission will involve the same expense now being incurred by the present Senate?

SR. SOTTO (F.): No sé si se gastará mucho o poco; pero, desde luego que no habrá ninguna remuneración adicional para ellos. Seran miembros de la Legislatura, aunque, para los efectos del impeachment y los nombramientos, se les separará como Comisión Permanente.

MR. BUSLON: But the Gentleman believes that there will be extra expenses, besides those they incur as members of the Assembly.

SR. SOTTO (F.): Serán elegidos por los miembros de la Asamblea.

SR. BUSLON: Comprendo, pero por la naturaleza de esa Comisión que será permanente, creo que deberá tener un personal distinto de la Asamblea.

SR. SOTTO (F.): Esa Comisión no tendrá más de vida que la de la Legislatura a que sus miembros pertenezcan. Segun el draft, despues de organizarse la Asamblea y después de organizar su personal, se procederá al nombramiento de la Comisión Permanente, y al término de los tres o cuatro años de ejercicio de los Representantes, terminará también el ejercicio de esos Comisionados.

EL PRESIDENTE: Ha expirado el tiempo del orador.

SR. BUSLON: Señor Presidente, registro un turno en contra del draft.

EL PRESIDENTE: Tiene la palabra el Delegado por Sorsogón, Señor Reyes.

#### SPEECH OF DELEGATE REYES (J.)

MR. REYES (J.): Mr. President and Gentlemen of the Convention: The draft of the Constitution, prepared by the Sub-Committee of the Committee on Sponsorship and approved by the parent body with but little discussion, suffers, aside from considerations of form and phraseology, from various important defects. Credit, however, must be given to the members of the Sub-Committee for the rapidity with which the complete draft was evolved out of the more or less voluminous reports of the numerous standing committees created one month after the opening session of this Convention.

The draft now presented is in the main a conservative document in the sense that it omits many debatable topics included in the committee reports and is based principally on the existing organic laws of the Philippines, the United States, and some European countries. The document undoubtedly has its merits, for the provisions which embody the doctrines and principles of the past have been well tested in the crucible of actual experience. Without minimizing the virtues of the plan as formulated by the Sub-Committee of Seven, I would say that it is undoubtedly in order to point out the fundamental defects either of inclusion or exclusion in the hope that the Convention may consider them and, if convinced of their existence, apply the necessary corrective measures.

The first fundamental defect is the mistaken conception of what a Constitution should be. There are articles which are plainly of a statutory character. It is true, of course, that the so-called newer constitutions contain many such provisions. But, precisely because of this fact, which is due to the attempt to prescribe remedies for evils that have ever-changing phases, they are likely to be highly temporary in nature. The old idea is that a Constitution should

determine the structure of the Government, the location of sovereignty and the relations between the Government and its citizens. Since all government originates from the intention to establish an impartial authority between clashing desires and interests, individual or collective, the fundamental law that governs its existence should have, a neutral aspect and should not in itself adopt any set of permanent doctrines or principles on economic or social matters, leaving such questions to be decided by the legislative authority which will be responsive to all the variations in the will and temper of the people in different epochs.

The second and, perhaps, even more fundamental objection to this document is the fact that it contains no definite philosophy of government. The part dealing with General Principles and the Bill of Rights expresses the individualistic liberalism of the eighteenth and nineteenth centuries, the last part providing for vast extensions in the sphere of governmental functions, including the delegation of legislative authority to the Executive in periods of emergency, authority to expropriate private property beyond the limits now recognized by law, almost unlimited power to interfere in the affairs of industry and agriculture, as well as to compete with existing business, and even a precept relating to the awarding of contracts is a reflection of the fascination exerted by current tendencies in many lands. Whether or not these tendencies will remain or disappear when emergency conditions are overcome cannot be foretold. It is certainly premature to place them as permanent fixtures in the fundamental law of the country.

While conservatism characterizes the draft as a whole, the desire to deviate from the accustomed paths could not be suppressed altogether. Thus the text of the provision referring to freedom of the press is taken not from the American but from the continental model. Also, in one short sentence, the existing law regarding the civil rights of both sexes in the conjugal partnership is completely recast. Referring to the first instance, it should be noted that the guarantee of the freedom of the press in the American Constitution has already a generally accepted interpretation in our jurisprudence; while the proposed text will need to be interpreted anew and, since it is modelled after similar constitutional provisions in European constitutions, it is to be presumed that the Judiciary will take into consideration the generally accepted interpretation in those countries. It is undeniable that freedom of the press in those lands is much narrower than it is in the American Republic.

In at least one instance, this constitutional draft does not carry a salutary principle to its logical conclusion. In accordance with the English budgetary system, the National Assembly is prohibited from increasing the items recommended by the Executive in the General Appropriation Act. But the companion principle that independent legislation involving a charge upon public revenues should be recommended by the Executive or else carry provisions for raising additional revenues to meet the estimated outlay is omitted. Thus the English plan of budgetary procedure is adopted in part and also rejected in part.

The document contains important omissions, the most significant of which is the absence of any provision increasing the autonomy of our municipalities and provinces. Thomas Jefferson declared local government to be the backbone of democracy; William McKinley gave local autonomy a most prominent place in his Instructions to the Philippine Commission. But it is impossible to deny the fact that, actually, the provinces and municipalities in the Philippines do not exercise the autonomous powers that should be theirs. Other principles that may well deserve to be included are those providing for the subordination of the military to the civil authority, prohibiting the passage of class legislation, and authorizing the calling of a constitutional convention whenever there is need for a general revision of the Constitution.

This draft contains provisions dangerous to the vitality of democratic principles. The creation of a permanent commission of the National Assembly composed of only twenty-five members with the power to confirm appointments opens the door, unless the details of the provisions are radically modified, to possibilities most dangerous to the existence of a real democracy in the country. It is not an exaggeration to say that this Permanent

Commission will not probably be the creation but the master of the Body which will give it being. If this be so, and if the democratic principle is to be preserved, then a radical modification of its membership is indicated.

In one instance the lack of a definite philosophy of government is more apparent than the failure to set up a counter-balancing authority to the powers conferred upon the Executive Department. From ancient times, the check and balance principle has been recognized. The more famous doctrine of the separation of powers is but one of the expressions of this more fundamental and more general rule. It is the converse of the axiom that in government, as perhaps also in nature, power begets power, and the weight of an object, as well as its attractive force, depends upon the mass and its density. This document, prepared by the eminent Gentlemen composing the membership of the Sub-Committee of the Committee on Sponsorship, forgets altogether the moral to be drawn from that principle.

There is a vast concentration of authority in the Executive Department in normal periods; in emergencies the limits of the Executive power are vastly extended; but no parallel authority is created that can serve as a check upon such power. It is true that impeachment is provided for; but this process now has a criminal connotation and would presumably not be used in cases of differences of policy. It is also true that the people can express their will at the polls during elections; but since the length of these intervals is fixed, the judgment on the record of the Executive is made dependent not upon the changes in public opinion, but upon the fixed periods of the calendar.

It may be said that a defect of this character is inherent in governments of the presidential type. The observation is correct; but it should be borne in mind that this inability to make the Government responsive to public opinion at any given time necessarily has consequences that are sometimes of a very serious nature. And the consequences may be more serious if the temperament of the people is not of the kind that yields to compromise demanded by practical considerations.

This draft of our Constitution is indeed not the work of a single political group; it would not be in accordance with the truth to say that the Majority has had greater intervention than the Minority in its creation. But, notwithstanding this collaboration, it does not contain the seed of immortality; unless radically modified, it is merely a constitution for the present, for but a fleeting moment in the life of the Filipino nation. The political phase of our collective personality may find a genuine and characteristic expression in the future. In this document, such an expression is not to be found. I thank you.

EL PRESIDENTE: Tiene la palabra el Delegado por Capiz, señor Roxas.

#### SPEECH OF DELEGATE ROXAS

MR. ROXAS: Mr. President and Gentlemen of the Convention: I think the Convention should consider itself deeply indebted to the distinguished Gentleman from Sorsogon, Mr. Reyes, for his able, scholarly and dispassionate criticism of the draft submitted to this Convention. There are many who, on the point of theory or principle, will agree with the Gentleman from Sorsogon. There are those who will find equal ground of criticism in the draft now before us. But, Mr. President, government is an art; it is a practical science, not a theory, and a government can be successful only if in its structure due consideration is given to the habits, the customs, the character and, as McKinley said, even to the idiosyncrasies of the people. A government that will be excellent in England, with more than seven centuries of tradition behind it, may not be successful in, or mostly appropriate for, a country like ours, or even in a country like the United States of America. A government that may be sound and appropriate for America may not be the best government for the people of Spain, for the people of Switzerland, or for the people of the Philippine Islands. That is why, Mr. President, in the preamble of this Constitution, it is clearly and definitely stated that this Government that we formulate in this Constitution expresses the ideals, the visions and the propensities of the people according to circumstances in which we find

ourselves.

I will endeavor, to the best of my ability and in my humble way, to make reply to the remarks made by the Gentleman from Sorsogon with reference to this draft. The first statement he made is that this Constitution does not, is not, based on a definite philosophy. In fact, he stated that there is no philosophy underlying its provisions. My answer is that this Constitution has a definite and well—defined philosophy, not only political but social and economic. A constitution that in 1776 or in 1789 was sufficient in the United States, considering the problems they had at that time, may not now be sufficient, with the "growing and ever-widening complexities of social and economic problems and relations. If the United States of America were today to call a constitutional convention to draft a Constitution for the United States, does anyone doubt that in the provisions of the Constitution there would be found definite declarations of policy as to economic tendencies; that there would be matters necessary in accordance with the experience of the American people during these years when vast organizations of capital and trade have succeeded to a certain degree to control the life and destiny of the American people? If in this draft of our Constitution the gentleman finds declarations of economic policy, they are there because they are necessary to safeguard the interests and welfare of the Filipino people, because we believe that the days have come when, in self-defense, a nation may provide in its Constitution those safeguards for the patrimony, the freedom to grow, the freedom to develop national aspirations and national interests, not to be hampered by the artificial boundaries which a constitutional provision automatically imposes.

What is the definite philosophy? This constitutional draft is premised on a clear-cut political hypothesis. This hypothesis underlies the whole philosophy of this document. What is it? The hypothesis is that sovereignty resides in the people. It is so declared, in one of the principles enunciated in this document, that sovereignty resides in the people and all parts of the machinery of government emanate from them. The Government is the creature of the people, and the Government exercises its powers and functions in accordance with the will and purposes of the people. That is the first principle, the most important one underlying this document. Second, the Government established to the prevailing conditions, circumstances and political outlook of the Filipino people. Rizal said: "Every people has the kind of government that they deserve." That is just another form of expressing the principle enunciated by the French philosopher when he said: "Every people has the right to establish the form of government which they believe most conducive to their welfare and their liberty."

Why have we preferred the Government established under this draft? Because it is the Government with which we are familiar. It is the form of government fundamentally such as it exists today; it is the only kind of government that our people understand; it is the kind of government we have found to be in consonance with our experience, with the necessary modification, capable of permitting a fair play of social forces and allowing- the people to conduct the presidential system. The Delegate from Sorsogon said Mr. President, that the executive powers in this constitutional draft are so great; that there is no check to such powers, except, he said, when the fatal day of the calendar arrives, when another Executive takes his place. The insinuation, Mr. President, is not against this draft but against the presidential form of government, and in favor of the parliamentary form of government. That is to say, this draft is criticized because it does not contain the necessary authority in the hands of political parties and in the hands of the people to recall the Executive and to recall the Legislature, if you please, when either the Executive or the Legislature should undertake functions or politics which run counter to the wishes and desires of the people.

But Mr. President, that is precisely the point of difference between the presidential system and the parliamentary system. Under the presidential system, we elect an executive and a legislature for a definite term. Under the parliamentary system, the Parliament is elected for a definite term; at other times without a definite term but subject to the power of the Cabinet to dissolve and subject to the power of Parliament to appeal to the people in

some instances, so that they may decide controersies between the Cabinet and the Parliament. The reason why the parliamentary system has been a success in England and has been conducive to greater and larger democracy is, I repeat, because there exists a tradition of many centuries behind the English people. As Wood-row Wilson said, self-government is not an object that could be given or assigned. Self-government must grow with the people, with the nation. It must be built up on character. Why is an English judge the model of impartiality, if not of wisdom? Because behind him there have been a series, a long train, of English judges who performed the duties of their office with perfect impartiality. An Englishman would rather break his word or his fortune than break a tradition of the English nation. Why is there no constitution in England and yet constitutional government in England exists with the same rigidity as if a written constitution existed? Because that unwritten Constitution in England is a part of the nature and character of the English people, and no Englishman, however high in station or low on the social ladder, will dare to violate the constitutional traditions of the English race.

But we are not favored with a tradition in the Philippine Islands. What would happen, Mr. President, if in the Philippines we permitted that an adverse vote of the Legislature should provoke a new election of the Chief Executive? Every time the Chief Executive should veto pork-barrel legislation or every time the Chief Executive should refuse to appoint a candidate for office recommended by the majority of the Legislature, he would be threatened with an adverse vote, and if he did not want to lose his office, he must bow down with servility to the Legislature, and the result would be this: he would lose his honor, damage the country, but save his office. That is what would happen. We want to guarantee to the Legislature, we want to guarantee to the Judiciary, we want to guarantee to the Chief Executive, a fixed tenure so that they can exercise the duties and functions of their office with independence of character, responsible only to their conscience, their God and the people who have placed them in office.

No definite philosophy? No checks and balances? Why, Mr. President, you will find in this draft of the Constitution all the system of American constitutional law embodied in its provisions. No checks and balances? Yes, there are. And I venture to say, Mr. President, that in this draft the theory of checks and balances is being carried with greater detail than in the constitutional provisions of the United States, I shall mention a few examples.

In the United States judges are appointed by the President, with the advice and consent of the Senate. The check is exerted by the Senate. In the Philippines our experience has shown that that system is not entirely satisfactory. In many instances, the Chief Executive must bow down to the dictation of the Senate if he wants his appointments confirmed. We have, therefore, provided another check. We have provided that nominations for the judiciary shall originate not in the Chief Executive, neither in the Legislature, but in that department of the Government whose peculiar and special functions it is to administer justice—the Supreme Court. We provide that the Supreme Court shall submit to the Chief Executive a list of three persons for each vacancy to the Court of First Instance or to the Court of Appeals, and the Chief Executive shall make the nomination from this list and submit it to the Permanent Commission for confirmation. There you have two checks on the power of the Chief Executive—the power to initiate appointments, which shall reside in the Supreme Court, and the revisory functions, which shall be exercised by the Permanent Commission.

Now, Mr. President, many will argue that this is a cumbersome process. Many will claim that it is not necessary for the Permanent Commission or any other agency of the National Assembly to confirm appointments, in view of the fact that the power of the Chief Executive to make nominations is already circumscribed by the power to make the list provided for in this Constitution and given the Supreme Court. But, Mr. President, there is a political philosophy behind this plan, a political philosophy which I hope the members of this Convention will keep ever present in their minds when they consider the provisions regarding the Judiciary. It is this: one of the principal

functions, if not the most important function, of the Judiciary is to safeguard personal or individual rights guaranteed in the Constitution. The Supreme Court is the only bulwark of the people against the abuses of the Government that they establish through the Constitution, to defend the rights whose invasion they provide against in the Bill of Rights. "No man shall be deprived of his property without just compensation; the freedom of the press shall forever be safeguarded; no law shall be passed providing for an establishment of religion," etc., the most priceless rights of individuals.

And against whom are these rights to be defended? Not against other individuals, but against invasion by the Government itself. That is to say, against invasion perpetrated by the Chief Executive abusing his powers, or invasion perpetrated by the Legislature passing laws that may destroy or render nil these individual rights. And the Judiciary rises, facing the two other departments of the Government to protect the individual. Now, if that is one of the most important, if not the most important, functions of the Judiciary, why should appointments to the Judiciary be left exclusively in the hands of the Executive, and if you please, of the Legislature, the very departments of the Government against whose abuses the people should be defended? That is to say, if the Executive had the sole power of appointing officers to the Judiciary, the President could render nil every constitutional guaranty by appointing judges who would sustain his worst abuses of power. Confirmation by the Legislature, a combination between the Legislature and the Executive to establish a dictatorship in the country, would have the same effect. This whole Constitution would be rendered a nullity through a combination of the Legislature and the Executive if we had a judiciary whose existence depended on the whims and caprices or desires of any or both of them, and that is the reason, Mr. President, why, in order to make the Judiciary as independent as possible, as self-perpetuating as we humanly can, we provide that appointments for the Judiciary should originate from a list submitted by the Supreme Court to the Chief Executive, and the Chief Executive should choose his nominees from this list and submit it to the revisory-checking function of the National Assembly through the Permanent Commission. That is the philosophy of this draft with respect to the Judiciary.

What is the philosophy with regard to the Legislature? The Legislature is a body of direct representatives of the people elected by the qualified electors of the districts that may be provided for by the National Assembly. They come and participate in this Government, and the Constitution entrusts to them the law-making power. The Gentlemen of the Convention know that there are several systems adopted in several countries regarding the grant of powers to the legislative body. For example, we have the Federal Constitution of the United States which clearly enumerates these powers. Any power which does not appear in this enumeration or any power which may not result—this is the resultant power—from the enumeration or from the totality of the powers granted is deemed not to be under the grant of constitutional powers to the Congress of the United States. On the other hand, we have the constitutions of several states of the American Union that grant powers in general terms. The legislative bodies of these states have complete legislative powers subject to certain exceptions; first, the exceptions that are contained in the constitutions guaranteeing the Bill of Rights; second, the powers that have been given to the American Congress under the Federal Constitution; third, the contractual political obligation on the part of different States as members of the Union, that with their consent as ascertained by the provisions of the American Constitution, that document is amended so that additional powers are granted to the American Congress. These additional powers should be considered as new restrictions to the powers of the several state legislatures.

Ordinarily, Mr. President, the system of government that is federal in nature, like the one that they have in the United States, like the one that they have in Poland, like the one that they have in Mexico and in many other federated countries, the system is one of enumerated powers. But in a country that has to deal with a small political sovereignty, a country like ours, constituted by a people expressing a whole and one sovereignty with a community of interests, the system is generally unitary: one government in federated small nationalities, but one nation to govern and exercise jointly over all the territories. The political subdivisions are creatures of the

Constitution and of the Government under the Constitution. Let us not, Mr. President, confuse our provinces in the Philippine Islands with the States in the American Union. Let us attempt to accord to our provinces and municipalities the same category that the States of the American Union have. They are not the same politically. The American States exercise sovereignty which belongs to them and of which they cannot be deprived. They are members of organized with their consent. True, the National Government of America is more and more growing into the concept of a national government as distinguished from a federated government. Nevertheless, the fundamental basis of the American constitutional law and the political compact of the American States are based on the independent sovereignty of the different States of the American Union.

But in the Philippines, Mr. President, our provinces exercise no independent sovereignty—separate and distinct from that of the nation. They are only creatures of the Legislature. They can be born or, I might say, they are born that they may live and die in accordance with the will and behest of the National Government. And why have we not included in the draft provisions regarding the autonomy of our provinces and municipalities? The reason is obvious, Mr. President; local governments of this character are creatures of the National Government, and to exercise their functions for the general interest of the people, they should always be under the control, jurisdiction and power of the Legislature. For a very obvious reason, I repeat, let me give an example. Suppose, Mr. President, we insert in the Constitution that the provincial governor and municipal president shall have more autonomous powers, specifying the powers; if you do not specify the powers, the provision will just be an exposition of powers, not constitutional precepts of an obligatory nature.

We shall gain nothing, Mr. President, by inserting in the Constitution a provision that greater and ever greater autonomy be given to provinces and municipalities. It will mean nothing at all. It will be a recommendation to the Legislature which may not be fulfilled, and the question of whether a particular measure grants or decreases the autonomy of the provinces and municipalities is simply a matter of opinion and not even the courts may intervene or interfere on a question of that kind. But supposing, Mr. President, we provide that the provincial governors shall have the power to appoint provincial treasurers, that the municipal presidents shall not be removed from office except by a certain procedure fixed by law. Why, shall we tie up the hands of the Legislature forever with respect to the present system of provincial and municipal governments? Are we despairing of our growth and the advance of our people and their capacity to adapt a system of provincial and municipal government to the changing circumstances and conditions of an ever-changing world? In the United States there is a great deal of doing away with elective heads of local governments to give way to commissions and the work of government by experts. The best constituencies of the world, as admitted by everyone, are the local counties of France. Why? The French people have discovered through their experience that in order to be sure of efficient administration in small municipalities and countries they must have trained administrators. You cannot improvise an administrator for the affairs of forty thousand or fifty thousand people any more than you can improvise an administrator of a corporation with fifty-thousand pesos of capital. That is why the French have the practice of training administrators and selecting men who have been trained for particular functions of government.

There is in the Saturday Evening Post, Mr. President, a very able article by Will Durant, one of the greatest philosophers of America today, where he says: "Democracy is now on the cross-road. On the one hand, you have the dictatorship of Europe commanding a great machine of propaganda that reaches every nook and corner of the world, announcing and publishing the successes of the dictators of Europe, trying to establish dictatorship as the best form of government." On the other hand, you have Communism and Fascism. Will Durant says: "If democracy wants to save itself from being absorbed by the absolute powers of dictators, on the one hand, or be swamped by the growing tide of Communism and Fascism, democracy must defend itself, not by theories, but by the application of sound common sense." Let us not, Mr. President, in the discussion of this Constitution, merely repeat the now old-fashioned formulas of liberty and democracy, nor accept these terms as infallible under all

circumstances. Principles may be true, principles may be wide, but when you apply principles and have to deal with human nature, principles suffer in the process. Human nature is not adapted to principles, and we cannot change nature in accordance with the mandates or the exigencies of principles. You apply principles to human nature, and you change or modify principles, so that in their contact with human nature you may be able to obtain the closest approach, the perfection that you can possibly imagine. So I say, Mr. President, that in referring to provincial and municipal governments, we have for our purpose not to curtail the local autonomy but simply to recognize that our present system of provincial and municipal governments has not as yet attained perfection, and the hope and the faith that as our experience grows by trial and error, we may be able to evolve a system of municipal and provincial governments in the Philippines, that while giving to the inhabitants of each province the greatest amount of participation in their local affairs, we may yet safeguard the efficiency that should characterize the system.

With regard to the Legislature, Mr. President, I will say, before giving up the subject, that the system we have adopted in this Constitution is the system of general grant of power. All the powers of legislation are given to our Legislature, except those among the limitations enumerated in this Constitution. They have the whole field except a few prohibited sections and on the borderline of this prohibited territory are erected an independent judiciary, an independent executive, and an independent legislature.

The philosophy underlying this Constitution with regard to the Executive is that he, under the presidential system, must be assured of a fixed tenure and an opportunity to independently exercise the functions of his office in accordance with the Constitution and thus serve the best interests of the country. As an independent agency, he is not to be harassed or have his hands tied. We do not provide an opportunity for reelection, Mr. President. Why? Because in examining the results of the present system in the United States of a four-year tenure without restriction as to reelection, unbiased observers of political parties and creeds in the United States are of the opinion that the Presidents of the United States, and I am making reference to no one in particular, have irresistibly, no matter how wise, how patriotic, responded to the dictates of human nature during the first years of their administration and busied themselves more in preparing for their reelection than in serving the country as a whole. We are, therefore, providing for a six-year period so that the President, when he takes the oath of office, knows that he has six years, ample opportunity to serve his country, answerable only, I repeat, to his conscience, to God and to the people who elected him.

There is no check, the Gentleman from Sorsogon says. Suppose the President is inefficient, suppose he is guilty of culpable negligence in the exercise of his functions. There is no check? Yes, there is. In fact, there are many checks. The first is public opinion. Oh, public opinion is unsubstantial; public opinion is not a power provided for in the Constitution. What can it do? Yes, Mr. President, such things may be said against the compulsory and coercive nature of public opinion. But I venture to say that there is no public official in this Government, or any other government, that is willing or is able, for a sufficient length of time, to dare public sentiment and to face an adverse public opinion in the whole country; no matter how powerful he is, sooner or later public opinion will prevail, because every man wants to be well thought of. No man wishes to be President merely for his personal satisfaction; everyone who is worthy of his office, to which he has been elected, is one who will measure his success in terms of public approval of his conduct and of the amount of good that he does for his country, rather than the amount of personal satisfaction he derives from having been able to do everything he wanted to do. That is the first check.

The second check—impeachment. In this draft, the procedure is left in an expeditious way to the Permanent Commission, which shall exercise the functions of the House of Representatives in the United States. The Permanent Commission is empowered to formulate the charges and indict the President by a majority vote. Then

that indictment is carried to the National Assembly and the case is tried before that Body under the Presidency of the Chief Justice of the Supreme Court.

On what grounds may a President be impeached? The Gentlemen of this Convention can read that in this draft. One of the grounds is culpable negligence; another is treason. Still another is being guilty of a serious felony or high crime.

Is there anything untoward or wrong that a President may do which cannot fall under any one of the enumerated grounds? I think not, Mr. President. I think not, and any President who willfully defies the Constitution, any President who disobeys the mandates, the legal and constitutional mandates of the Supreme Court or of the Legislature, may be impeached. Any president who commits a crime, who orders innocent men and women to be shot to death, for instance, or any President who plots secretly to overthrow personal liberty and establish a dictatorship, may be impeached.

There is the check. No cheek? What else is there that can be proposed to check the powers of the Chief Executive? Mention was made here of the right of the people to elect another Executive. I have already touched upon that subject, and I shall not repeat. It will not be satisfactory in the Philippine Islands.

Now, Mr. President, I wish to say in conclusion that the structure of government that you will find in this constitutional draft is very similar to the system of government that we now have, with the necessary variations resulting from the establishment of a unicameral system of legislature. Ours is a republican form of government. We comply with the provisions of the Tydings-McDuffie Law. Why is it a republican form of government? I shall not go into that. Everybody knows it is a republican form of government because it is a representative government, because the powers of government are exercised by the representatives of the people in their behalf and in their name. Second, it contains a Bill of Rights. Yes, it contains the same Bill of Rights, the same enumeration of individual rights that appears in the Jones Law, in the Constitution of the United States, with a few additions. I say with a few additions, because there are a few rights which we believe should be, by reason of our social structure and social conditions here, separated from the jurisdiction of the Legislature to legislate about them. One of them is the freedom of the individual Filipino not to be imprisoned for failure to pay debts or to pay taxes.

That is a very important innovation, Mr. President. Read the provision of the Bill of Rights in the United States. The Federal Constitution, the Jones Law, the State constitutions, even the constitution of Europe, those that have a Bill of Rights—generally those constitutions simply say, “No citizen or no person shall be imprisoned for debt.” Why? In this country, we have to safeguard the poor men who are compelled to pay a cedula tax and who, if they cannot pay the tax, are incarcerated. We believe that that is an outrage against liberty and against the equality of men and equality of opportunity. We believe that a man should not be placed in jail because he has no money to pay his taxes, because the people and the country do not give him an opportunity, a fair chance, to earn a living. If this draft of the Constitution is approved, there will be, I hope, no complaint against the cedula tax. Let the rich man pay the tax. He uses an automobile. Why should he not pay for the upkeep of the roads? Those who are capable of paying, why should not they be compelled to pay? But the poor man, if he is incapable of paying the tax, civil process may be used to compel him to pay, but he should not be put in jail because he is unfortunately poor and incapable of paying the tax.

There was a proposal in our Committee, Mr. President—may I reveal this fact?—to abolish the cedula tax. If there is a provision prohibiting the incarceration of a man who, because of poverty, cannot pay his tax, there should be no objection to the cedula tax. Why are we going to tie up the hands of the Legislature in the matter of looking for revenues for the support of provincial and municipal governments? Why dry up the fountain of the public

revenues for the future? Are we sure that we can find a substitute for the cedula? Are we sure that municipalities will be able to live and provinces able to support their general expenses under the road and bridge fund if the cedula is abolished? Why. Mr. President, can we not leave this matter in the hands of the Legislature, which will represent the Filipino people just as this Convention does today? Let us believe and hope and trust that in deciding this question, about which the Constitution is silent, the Legislature will solve it with the same high purposes that animate us now, with the same noble aims that impel our acts and our opinions and our convictions in this Convention.

Mr. President, I think that, with all its defects, this draft may be a basis for consideration and deliberation of this Chamber. I believe it is not perfect; there are some provisions in it to which I am opposed, and at the appropriate time, I shall try to propose the necessary amendments. But I think that, as far as the principal structure of government outlined in this draft is concerned, I believe it is unjust, to say the least, to affirm here that those who drafted this draft were ignorant of the purposes of a constitution and what a constitution should be—and that there is no philosophy underlying this draft. I think otherwise; if this draft has any defect, it is that it contains a whole lot of philosophy.

Now, with respect to the economic provisions that are inserted there and the extraordinary powers that are given to the President, these are not a creation of the brains, if any, of the men who compose the Committee that drafted this Constitution. The power, the permission given here to the Legislature to delegate to the President in cases of national emergency or in time of war, the power to carry out or to declare national policy, is not original among the members of that Committee. This is simply an adoption of the N.R.A. legislation in the United States. That is to say, when the usual processes of democracy are too cumbersome or inadequate to cope with a crisis or a serious national emergency, as in case of war or of famine or of widespread devastation, then the Legislature may simply say to the President of the Commonwealth or of the Philippine Republic that a national emergency exists, and all the powers and resources of the Government should be devoted to that national emergency, and the President is authorized to apply any money in the Treasury of the Government not to exceed two hundred million pesos in order to keep the course of credit or employment and so forth and save the country from distress, and then the President is made the administrator of that. But that is only in case of national emergency. Now, the extraordinary power given to the President here is the power to increase or decrease tariff rates. In the United States, that is done with the aid of a constitutional amendment. I believe the Supreme Court of the United States has conceded the constitutionality of that act of Congress authorizing the President to increase or decrease tariff rates up to 50 per cent of said rates; but in the Philippine Islands, there was a need of giving that express authorization, because of the opinion laid by the Judge Advocate General of the War Department to the effect that a law passed by the Legislature giving that authority to the Governor-General was of doubtful legality. For that purpose, this provision has been inserted.

Mr. President, I wish to repeat that we do not claim originality or perfection in this draft. We expect your criticism. We know that the draft is capable of great improvement; we know that every Member here can help make this draft a better one. There will be no resentment on the part of the Members of the Committee who drafted this Constitution against fair and just criticisms. May I commend it to your intelligent and generous perusal? We ask of you to formulate your criticisms; present your amendments. We want to hear your views, and after you have expressed them, we shall give our own. I believe it is possible—it is probable—that we will agree on the final draft, that when the last day of the Convention comes, we may be able to say, with hearts joyous and confident, that we have rendered a good service to the country, to step up one by one to this table and put our names on this constitutional draft and thank Almighty God that we have done something for the liberty and happiness of our country. I thank you.

THE PRESIDENT: The time of the Gentleman from Capiz has expired.

LEVANTAMIENTO DE LA SESIÓN

EL PRESIDENTE: En vista de que la Cámara de Representantes necesita el salon durante los días 7 y 8m del actual, si no hay objeción por parte de la Asamblea, se levanta la sesion de la Convención hasta el 10 de noviembre de 1934, a las diez de la mañana. (No hubo objecion.)

Eran las 7:05 p.m.

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