

JOURNAL NO. 116

APERTURA DE LA SESION

Se abre la, sesión a las 10:20 a.m., ocupando el estrado el Presidente, Hon. Claro M, Recto.

EL PRESIDENTE: Se abre la sesión.

DISPENSACION DE LA LECTURA DE LA
LISTA Y DEL ACTA

SR. MARAMARA: Señor Presidente

EL PRESIDENTE: Señor Delegado.

SR. MARAMARA: Pido qué se dispense la lectura de la liata y del acta, y que se dé ésta por aprobada.

EL PRESIDENTE: ¿Tiene la Asamblea alguna objeción a la moción? (*Silencio.*) La Mesa no oye ninguna. Aprobada.

Léase el asunto en orden ahora.

EL SECRETARIO:

Continuacion del estudio del proyecto de Constitucion. Titulo XL — Auditor General.

EL PRESIDENTE: Tiene la palabra el Comité.

DISCURSO DEL SR. DIKIT

MR. DIKIT: Mr. President and Gentlemen of the Convention: In recommending for your favorable consideration the provision concerning the office of the Auditor-General, contained in Article 11, page 38 of the draft of the Constitution, permit me to give a brief history of the establishment of the auditor's office in the Philippine Government. The office of the Auditor wag first established in 1899 by Executive Order of President McKinley. Under this Executive Order, the Auditor was appointed by the Secretary of War and his duty was limited to auditing all transactions of the Customs office or both offices. In 1900 and 1901, the Philippine Commission approved Acts Number 20, dated October 20, 1900, and Number 90, dated February 28, 1901. Under these two acts, the Auditor was given further power to make reforms in the system of the Government.

His decision was made final upon the administration branch of the Military Government, except that appeals therefrom might be made to the Military Governor. The provision of the Executive Order of President McKinley and these two acts of the Philippine Commission were brought forward and enacted into Act No. 1792 of the

Philippine Commission, known as the Accounting Act, approved on October 12, 1907, in order to make the office of the Auditor more or less permanent in the Philippine Government. Under the Act, the Auditor was appointed by the Secretary of War of the United States, with the concurrence of the Philippine Commission. His jurisdiction was extended to all Departments of the Insular Government, the City of Manila, the provinces and municipalities, townships, and settlements. His decision was made final upon the Executive Branch of the Government except that appeals might be made to the Secretary of War.

The provisions of Act 1792 were practically reproduced in Sections 24 and 25 of the Act of Congress of August 29, 1916, known as the Jones Law. Under this Act, the Auditor was appointed by the President of the United States and his decision was made final upon the Executive Branch of the Government, except that appeals might be made to the President of the United States. And that is what we have now today. The powers and jurisdiction of the Auditor were defined and extended by Act No. 3066 of the Philippine Legislature, approved on March 16, 1923, by extending said powers to all Government-owned business enterprises. It can be seen, therefore, that the office of the Auditor has been made a permanent institution in the Philippine Government.

I have investigated what kind of audits the governments of other countries receive from the auditing bodies. In the United States, Congress passed an Act on June 10, 1921, establishing an independent general accounting office under the direction and control of the Comptroller General. His salary is fixed at P15,000 per annum. His term of office is fifteen years and he is removable through impeachment. He is retired when he reaches the age of 70 years, and his duties are similar to those we are now providing in our Constitution.

In England, his title is "comptroller" and "auditor-general." The office was established in the year 1866. He is appointed by the King and his salary is fixed at two thousand pounds, equivalent to about P220,000 in our money. He holds office during good behavior, is removable from office by His Majesty or by an address from the two Houses of Parliament. His duties are similar to those we are now providing in our draft.

In Canada, the title is "auditor-general." The Auditor-General is appointed by the Governor-General. He receives a salary authorized by law. He holds office during good behavior, is removable from office by the Governor-General or an address to the Senate and the House of Commons. His duties are similar to those we are providing in our Constitution.

In France, there is a Board of Acts, which affirms the acts of the judiciary and also reports to the Legislature for any infraction of the Law of the Budget. The office was created in 1807 and was further modified in 1831. The functions of this Committee are about the same as those being provided in our Constitution.

In Germany, under Article 66 of the Constitution, the accounts are audited in a manner to be provided for by law of the Rhine. And the duties are almost similar to those we are now providing in our Constitution.

In Japan, under Article 72 of the Constitution, the expenditures and revenues of the State are verified and confirmed by the Board of Audits and submitted by the

Government to the Emperor or Diet. The organization of the Board of Audits is determined by law separately.

In Turkey, under Article 1 of the Constitution, a special Board of Accounts, dependent on the grant of the National Assembly, and charged with the verification of the receipts and disbursements of the State, is provided for by law.

In the Irish Free States, the title is "Comptroller" and "Auditor-General" and his duties are similar to those being provided by us in the draft of our Constitution.

MR. GRAGEDA: Is the history of the provision we have now under discussion in any way related to or derived from the history just mentioned?

MR. DIKIT: No. This is particularly patterned after the present organization of the Bureau of Audits of the Philippine Government and partly following the provisions contained in the Act of Congress with reference to the creation of the Office of the Comptroller General.

MR. GRAGEDA: In other words, the Gentleman's talk has no reference to this draft.

MR. DIKIT: I cited these cases just to inform the Gentleman that different countries have certain offices for the auditing of the accounts of the Government, some made by the Constitution, others made by law. That is why I cited those countries.

I think it will be interesting to observe the total receipts and disbursements that passed through the hands of the Auditor's Office. The increase of the Central Government for the ten-year period from 1924 to 1933 was P885,022,000; the local government or the provincial and municipal governments, P681,256,000, or a total of P1,566,278,000. The expenditures that passed through the hands of the Auditor for the ten years amounted to P878,000,000 for the Central Government, and P682,000,000 for the local governments, or a total of P1,560,000,000. These figures will show the importance of having an independent auditor's office.

MR. MARAMARA: Mr. President, may I ask the Gentleman a question?

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

MR. MARAMARA: Is the Gentleman speaking for the draft or for his amendment?

MR. DIKIT: I am speaking for both the draft and the amendment. I will now go to the amendments submitted to show further the importance of the independence of the Auditor's Office.

MR. VINZONS: Mr. President, just a question to the Gentleman from Rizal.

THE PRESIDENT: The Gentleman from Rizal may yield to the Gentleman from Camarines Norte.

MR. VINZONS: Were the amendments the Gentleman was trying to discuss duly presented?

MR. DIKIT: Yes, Mr. President.

MR. VINZONS: Would it not be wise to proceed to the order of amendments?

THE PRESIDENT: I think those are the amendments of the Committee.

MR. DIKIT: I thought I would discuss them now so that I would not have to take the floor all the time. I will just discuss briefly each amendment.

On line 13, after the word "commission," we propose the following amendments by adding the following words or sentence: "Unless otherwise provided by the National Assembly, the Auditor receives an annual salary of twelve thousand pesos. No person shall be appointed Insular Auditor who is not thirty-five years of age and a certified public accountant and must have an experience of ten years." The reason is that we do not want the Auditor to play politics. If his salary is not fixed in the law, he may play politics by seeking the favor of the parties into giving him a higher salary.

SR. RAMOS: Deseartamos saber cual ea la parte de esta Constituti3n que se est1 tratando ahora.

EL PRESIDENTE: La Auditoria.

SR. RAMOS: Pero, ¿cual es la parte cte la Auditoria qu3 se va a discutir ahora?

EL PRESIDENTE: El Delegado Dikit est1 anunciando las enraiendag del Comit3, las cuales tienen preferencia, seg1n las reglas parlamentarias, sobre las enmiendas individuates, de manera que vamos a considerar primeramente las enmiendas del Comit3, si las tiene.

SR. RAMOS: Entonces, vamos a considerar enmienda por enmienda las enmiendas del mismo Comit3.

EL PRESIDENTE: El ponente puede explicar ya, para ganar tiempo. de un solo golpe, cuales son las enmiendas del Comit3, y la Asamblea votar1 separadamente esas enmiendas, y si alg1n Delegado quisiera hablar en contra de alguna enmienda del Comit3, podr1 hacerlo.

SR. ENRIQUEZ: ¿No podria yo proponer qu3 aquella parte de la enmienda Dikit sobre el sueldo no se trate ahora, sino qu3 se trate juntamente con la escala de sueldos, ya qu3 se ha acordado por la Asamblea discutir en un dia determinado la cuesti3n de los sueldos?

SR. DIKIT: No tenemos inconveniente en qu3 asi se haga.

(Continuing.) No. The qualifications are necessary to insure that we will have a qualified auditor. We do not want to repeat the mistakes made in Washington in the past, when we were sent a man not qualified for the position. Fortunately, we have now an Insular Auditor here who is the most qualified person ever sent to the Philippines, he being a certified public accountant. That is why we believe that the qualification of the Auditor must be inserted in our Constitution.

The other amendment is on line 16, page 39. After the word "him" add the following

sentence: "He shall publish annually simple comparative statements of the conditions of the operations of the government." This provision was taken from the Legislative department and inserted in the office of the Auditor General. Being a technical man, he must be the one to publish the accounts of the Government for the information of the Congress of the United States.

SR. ENRIQUEZ: Para una informacion. Su Señoría, al hablar de su segunda enmienda anunciada aqui, y que dice asi: "and shall publish annually simple comparative statements of the conditions of the operations of the government" hizo referenda a una disposición del Capitulo sobre el Poder Legislative. ¿No ha podido referirse al inciso 10, página 18 del *draft*, o la segunda parte de dicho párrafo?

SR. DIKIT: Sí. Señor, y esto fué eliminado a petición mia para trasladarlo a la Oficina del Auditor General. Eso fué lo que sugeri.

(*Continuing.*) The third amendment is on lines 1 and 2, page 40. Strike out the words "may be taken directly to a court of record or the Supreme Court," and instead insert the following: "shall he made in a manner to be provided for by law." The reason is that the Government is immune from civil suits in certain cases. We should amend the draft, as our Government will be confronted by many civil suits filed by parties aggrieved from the decision of the Auditor-General. Act 3083 of the Philippine Legislature says in Section 1: "Subject to the provision of this Act, the Government of the Philippine Islands hereby consents and submits to be sued upon any money claims involving liability arising from contract, express or implied, which could serve as a basis of civil action between private parties." This is the only instance wherein the Government may be sued.

SR. ABELLA: Para una pregunta al orador, Señor Presidente.

EL PRESIDENTE: Puede contestar al orador, si lo desea.

SR. DIKIT: Sí, Señor.

SR. ABELLA: En la página 38 del *draft*, se prescribe un máximum de diez años para la tenencia del cargo de Auditor Insular. ¿Podria decirme el orador cuál es la razón que ha movido al Comité para marcar ese plazo para la tenencia del cargo del Auditor Insular?

MR. DIKIT: Here are the reasons for fixing the term of office of the Auditor General: The accounting work is so rigid that after a certain number of years the mind of an accountant becomes so dulled that it is necessary to relieve him. In the United States, the term of office of the Comptroller General is fixed at 15 years. I think that the committee was right in reducing the number of years from 15 to 10 years. Besides, as we are providing in the Constitution that the Auditor is an important constitutional officer in the Government, we have to insure a change once in white. The office of the Auditor is very tempting because all disbursements of public funds have to pass through it. Being human, if he stays in the office for a long time, he might abuse his powers to the detriment of the Government. There is a provision for impeachment, but the procedure is difficult to pursue; that is mainly why we believe that the tenure of office should be limited to 10 or 15 years. I believe that 15 years is fair, in view of our climatic conditions.