

JOURNAL No. 86

**Se abre la session a las 9:56 a.m. bajo la presidencia del Hon. Claro M. Recto.**

EL PRESIDENTE: Lease la lista de Delegados.

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

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

APROBACION DEL ACTA.

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

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

MR. REYES (J.): Mr. President, I ask for permission to take the floor for a few minutes on a matter of personal privilege.

EL PRESIDENTE: Tiene la palabra el Caballero de Sorsogon.

DISCURSO DEL SR. REYES

MR. REYES (J.): Mr. President and Gentlemen of the Convention: I hold in my hand a copy of a daily paper published in Cebu, owned by the Delegate from the Second District of that province, Mr. Filemon Sotto. This issue of the paper, **La Revolution**, has the following news item:

MANILA, nov. 7 (RADIO)—Un gran publico, que Ileno materialmente el salon de sesiones de la Asamblea, presencio los debates sobre el proyecto de Constitucion, que estaba bajo la ponencia del Delegado Filemon Sotto. El discurso de este duro una hora y media, pues llovieron sobre el las interpelaciones en castellano e ingles, que fueron contestados satisfactoriamente por el mismo. Despues del discurso de Sotto, se levanto el Decano Reyes (Delegado por Sorsogon), leyendo un discurso en donde se atacaba duramente el proyecto, por carecer, segun el, de filosofia. Se encargo de contestarle el Delegado Roxas (ex-Speaker), quien le apabullo impiadosamente a Reyes. Este avergonzado, tuvo que marcharse del salon, sin esperar que Roxas terminara su discurso."

Mr. President and Gentlemen of the Convention, the President himself, the Secretary of the Convention, the Delegate from the First District of Sorsogon, Mr. Grafilo, know, because I informed them previous to the opening of the session on Tuesday afternoon, that if I had to leave the session hall after my speech, it was due to a previous engagement. Much to my regret, I entirely missed the pleasure I would

have had in listening to the magnificent oration of the Delegate from Capiz (Mr. Roxas) for whom I have great personal admiration. I would have been pleased to listen to his speech, even if, as the newspaper item assert, he manhandled me, because the pain I would have had in seeing my bran-child slaughtered would have been compensated for by the artistry of his oration.

But it is not true, as this news states, and whoever was the origin of this information knows it is not true, that I left this session hall after listening to the arguments of the Delegate from Capiz, because I retired from the session hall immediately after my speech without having experienced the effects of his speech. The insinuation contained in this dispatch—and if there are any in the Convention who hold a view in harmony with this insinuation—that I hesitate to sustain the theories and the thesis set forth in my first speech, to them I answer: ask permission from the Constitutional Convention for an opportunity for me again to stand before the Delegates, and I will, to the best of my ability, maintain the four or five points I mentioned in my opening speech on the debate on the draft of the Constitution as a whole. That, in spite of the magnificent oration of the Delegate from Capiz (Mr. Roxas), in spite of the learned speech of the Delegate from Laguna (Mr. Benitez), in spite of the great constitutional speech of the Delegate from Batangas (Mr. Laurel.)

Mr. President. I want to speak restrainedly. I may not say more because I am afraid I will get out of the limits permitted by parliamentary procedure. But in conclusion I wish to say this: that the facts as related to this news item, as well as the insinuation contained therein, represent a complete distortion of the truth.

MR. NIERE: Mr. President, will the Gentlemen yield ?

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

MR. REYES: (J.) Willingly.

MR. NIERE: Is it true that after your speech your Honor went away? Does your Honor admit that assertion?

MR. REYES: (J.) I will answer the Gentleman from Cebu by asking him another question.

MR. NIERE: It is my turn to ask. Will your Honor please answer my question?

MR. REYES: (J.) I am going to answer the question, with your Honor's permission, in my own way, Is it not true that the debate on the draft was scheduled, in accordance with the original special rules, for Monday afternoon and not Tuesday?

MR. NIERE: Well, I will not answer the question because it does not pertain to my own at all. My question is whether the Gentleman left after he had delivered his speech.

MR. REYES: Before answering his question, I would like to ask the Gentleman from Cebu if he wants to assume personal responsibility for the statements contained in the news item.

MR. NIERE: Gentleman, I don't; I want only to ascertain whether it is true that the

Gentleman went away after he had delivered his speech. It is the assertion of this news that you did.

MR. REYES: The claim that I went away after listening to a few remarks of the Gentleman from Capiz this, as the Gentleman from Cebu knows, and as every other member of this Convention knows, is absolutely false.

MR. NIERE: But what I want to know, is whether the Gentleman went away after Speaker Roxas began delivering his speech.

MR. REYES: As a matter of fact, I went away before Speaker Roxas got the floor, and the Delegate from Capiz himself will bear me out on this. I ask the Delegate from Capiz if my statement is not true.

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

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

MR. REYES: With pleasure.

MR. MARAMARA: Does the Gentleman know the owner of that newspaper?

MR. REYES: Yes; Delegate Filemon Sotto from the Second District of Cebu.

MR. MARAMARA: Does the Gentleman know the editor?

MR. REYES: At present, I do not know.

MR. MARAMARA: Formerly.

MR. REYES: Formerly, according to the best of my information. Delegate Filemon Sotto.

MR. MARAMARA: I thank you.

EL PRESIDENTE: Consideracion del proyecto de Constitucion.

Tiene la palabra el Delegado por Batangas.

#### SPEECH OF DELEGATE LAUREL ON THE DRAFT OF THE CONSTITUTION

MR. LAUREL: Mr. President, with all the merits that must be accorded the draft of the Constitution, there is one outstanding defect that cannot be overlooked. Many provisions or precepts which have no place in constitution have been inserted, and the criticism of the draft on this ground is, in my opinion, justified. Surplusage abounds, and the draft violates the essential requisites of a good written constitution. It is elementary in constitution-making that the charter must contain only the essentials, the fundamentals. It must be brief. We are not legislating in the ordinary sense of the word; we are laying the foundations of the Government and must only incorporate the basic principles, and in so doing let us begin from the end

of the draft.

### **Article XIII — General Provisions**

Section 1 of this Article begins with what I consider as commonplace. It provides that "the defense of the State is the prime duty of government." The State, as a body politic, is a concept which implies territory, population and government. States, like individuals, possess the inherent right of self-preservation, and the Government as an instrumentality of the State is the physical power behind the State. It is trite, therefore, to say that the Government must defend the State as it would be to say that the Government must defend itself. Then, after such a meaningless pronouncement, the article goes on to say that "in the fulfillment of this duty all citizens may be required by law to render personal, military or civil service," a provision which is not objectionable by itself and is found in some modern constitutions, but which, in my opinion, should be stated, if at all under Section 3 of Article IV (Citizenship).

Section 2 of the article, which states that a national language is necessary to strengthen the solidarity of the nation and that the National Assembly shall take steps to adopt a common language, is but a mere expression of a longing of our people for a national tongue. I for one join in this expression of hope, but if we cannot adopt a national language now, we had better not say anything more about it in the Constitution because a constitution, I take it, is not a document for mere verbiage of sentimental expressions of this kind.

Section 3 concerns with the rearing of the youth in physical, mental, moral, and social efficiency as the highest duty and natural right of the parents, etc. With this provision we are making of the Constitution a code of morals or ethics. I do not think we should do that. Family relations are pretty well governed by the Civil Code, and well commented upon by Manresa, Mucius Scaevola and Sanchez Roman in our jurisdiction. Upon the other hand, the Constitution is not the place for a restatement of natural law because, with or without the Constitution, natural law continues to exist. Natural rights are extra-legal and extra-constitutional forces acting outside of the Constitution in the interest of humanity and human civilization, so we are told by Mr. Justice Miller of the Supreme Court of the United States. If certain natural rights are in a way restrained in the Bill of Rights, that is done not for the mere purpose of confirmation or enunciation, but as a limitation upon the powers of the Government, its agencies and officials, for the protection of the individual citizen in his relation with the Government and its agencies.

And so also, in Section 6, in a dogmatic way, the draft philosophically postulates on marriage, as the German and other constitutions have done, and then adopts the novel, anachronistic and violent provision regarding equality of civil rights of both sexes. The criticism of this section of the draft by my distinguished Colleague from Batangas (Mr. Orense) is, in my opinion, well-founded.

And this part of the draft goes on to provide for the organization of a National Research Council to promote scientific research and invention, a National Economic Council to safeguard social progress and plan national economy, in bombastic expressions, ending with a radical and revolutionary provision of the Mexican type which authorizes the limitation of ownership of private agricultural land; and then mixes up all these provisions on marriage, parental authority, national language,

national defense, scientific research, social and economic progress, education and religious instruction with the conservation and nationalization of our natural resources, instead of devoting a separate article to the last vital and all-important subject.

This article is the most unfortunate part of the draft, because it is a sort of dumping place for percepts reported by committees that had to be taken care of somewhere in the draft. The revamping of this article is necessary.

Other features of the draft may be referred to as requiring, if not reformation or modification, at least some explanation:

Section 2, Article VII, requires, for membership in the National Assembly, five years' citizenship of the Philippine Islands, whereas Section 14 of Article X requires justices of the Supreme Court and Courts of Appeals to be natural-born citizens. We seem to give less sentimental weight to citizenship as regards membership in the National Assembly. Is there any real potent reason for this distinction?

I observe that we are creating two Courts of Appeals and authorizing the creation of a third one, and as I examine the provisions in this regard, I am afraid we are complicating our judicial system in an attempt to give relief to the Supreme Court. I prefer to touch upon this matter when we come to discuss in detail this delicate part of the draft.

We are conceding to the Supreme Court the "ruling power" in matters of pleading, practice and the orderly conduct of business in all courts, following progressive legislation in the several States of the United States, reserving, however, to the Congress supervision and control over those rules, or the "power to repeal, alter, or supplement any rule of pleading, practice or procedure adopted by the Supreme Court" (Sec. 17, art. X), which dual or overlapping authority will undoubtedly give rise to conflict and confusion. It would perhaps be preferable to surrender this power completely to the Supreme Court.

In connection with the designation of the members of the Supreme Court for the Electoral Commission (Par. 6, Sec. 3, Art. VII and Sec. 7, Art. IX) it is perhaps desirable that such designation be made primarily in the order of the dates of their commission.

A power that is both unprecedented and dangerous is the power vested in the President to veto "any separate source of tax included in any revenue or tariff bill" (Par. 6, Sec. 5, Art. VII). This is not found in the Jones Law nor in the Constitution of the United States. Under the Jones Law and our draft, the partial veto of the Chief Executive is limited to an appropriations bill. Now, it is desired to extend this authority to revenue and tariff bills. This is a dangerous power as the Executive may single out particular sources of income or articles and thereby discriminate in favor or against. The authority thus given will impair legislative authority and add to the already overwhelming powers of the Executive. We are giving all the powers that the Executive needs to make of him a really strong Chief Magistrate, and here we should stop.

Article V deals with immigration. Considering the tenseness of the provision inserted in the draft that "the National Assembly shall by law regulate immigration