

JOURNAL No. 38

APERTURA DE LA SESIÓN

Se abre la sesión a las 5:00 p.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. ESCAREAL: Señor presidente.

EL PRESIDENTE: Señor Delegado por Leyte.

SR. ESCAREAL: Pido que se dispense la lectura de la lista y del acta, dandose ésta por aprobada y por presente un quorum.

EL PRESIDENTE: ¿Hay alguna objeción a la mocion? **(Silencio.)** La Mesa no oye ninguna. Queda aprobada.

Se dispensa la lectura de la lista y del acta.

CONTINUACION DE LA CONSIDERACION DEL
PROYECTO DE RESOLUCION No. 60

EL PRESIDENTE: Está en orden la continuacion de la consideracion del Proyecto de Resolucion Numero 60.

SR. CONFESOR: Señor Presidente, propongo que se vote,

SR. KAPUNAN: Concedo diez minutos al Delegado por Albay, Señor Presidente.

SR. CONFESOR: Yo me reservo, señor Presidente, el derecho de presentar la cuestion previa despues que el orador haya hecho uso de la palabra.

EL PRESIDENTE: Hay una orden especial para la discusion de este proyecto de resolucion y no se puede presentar la cuestion previa,

MR. MUÑOZ: Mr. President.

THE PRESIDENT: The Gentleman from Albay has the floor

DISCURSO DEL SR. MUÑOZ

MR. MUÑOZ: Mr. President and Gentlemen of the Convention: After giving my closest attention to all the speeches already delivered on the floor of this

Convention, both in favor and against the pending Resolution, I have yet to confess that I still stand firm and unchanged in my conviction that the Osias resolution is immaterial, impertinent and unnecessary, and can very well be dispensed with. I, therefore, stand before this august Body to register my vote against the pending Osias resolution, the brilliant speeches of distinguished supporters of said resolution notwithstanding.

In registering my vote against the pending Osias resolution, I have three brief and specific arguments to make, which may serve to refute the arguments already adduced by supporters of the resolution:

1. The provisions of the Tydings-McDuffie Law are so very clear and comprehensive that this Convention does not need the Osias resolution. Said resolution is futile and can be dispensed with. The Tydings-McDuffie Law is sufficient guide for this Convention and its various committees in formulating and drafting a constitution for the government of the Commonwealth of the Philippine Islands.
2. The pending Osias resolution will necessarily delay the advent of the independence of the Philippine Islands.
3. We should be consistent in our actuations and dealings with the Congress of the United States, and in our compliance with the mandate of the Philippine Legislature and the constituency of the districts we are representing in this Convention.

With respect to the first argument—that the provisions of the Tydings-McDuffie Law are so clear and comprehensive that this Convention does not need the Osias resolution—the supporters of the resolution and those against it have concurred in the opinion that the provisions of the Law are clear. Unmistakably, said Law is the basis which will guide this Convention in the difficult and arduous task of drafting the Constitution of the Commonwealth of the Philippine Islands. We are agreed on this point, so why continue to discuss the Osias resolution? Why do its supporters insist on its approval when they admit that the provisions of the Tydings-McDuffie Law are clear and that they serve as our guide in formulating our Constitution? What is the necessity for defining the scope of the Constitution to serve as guide of the various committees and of the Convention, if we all agree that the Tydings-McDuffie Law supplies us the true and correct sketch of the Constitution we are to draft—its form, nature, scope and limitations ?

Even at this juncture, we can positively affirm that the Osias resolution is futile and absolutely immaterial.

Even without the Osias resolution, this Constitutional Convention can very well draft and formulate a constitution that will stand the acid test of time—a fundamental law that will be a monument to the present generation and a lasting memento of our race—a constitution that will give boundless benediction to the happiness, tranquility and prosperity of our people.

Mr. President, the nature of our task and the purpose for which this Convention has been called do not warrant nor justify even the slightest consideration of the Osias resolution. We are here to draft a constitution in accordance with the accepted legal

significance of the word "Constitution."

Justice Miller of the United States Supreme Court says: "A constitution may be defined as the written instrument by which the fundamental powers of the government are established, limited and defined, and by which those powers are distributed among the several departments for their safe and useful exercise for the benefit of the body politic." James Bryce, in his work on "Studies in History and Jurisprudence," Vol. 1, pp. 2229-2230, speaking of the nature and scope of a constitution, says: "The purpose of a constitution is to prescribe the permanent framework of a system of government, to assign to the different departments their respective powers and duties, and to establish certain fixed first principles of which government is founded. A constitution has three main objects. One is to establish and maintain a framework of government under which the work of the state can be efficiently carried on. Another, to provide due security for the rights of the individual citizens. The third object is to hold the state together."

Under the nature and purposes of a constitution as above stated, do we still need a resolution to define the scope of the constitution to be framed for guidance of the Constitutional Convention and its various committees? There is absolutely no need; consequently, I dare say it were better if the Osias resolution had not been submitted at all.

My second argument: The Osias resolution will delay the advent of Philippine independence. Discussion of said resolution has already taken up two weeks of our most precious time, and who knows if said resolution will also tend to delay the coming of our coveted freedom. I am more inclined to believe so, because if we approve the Osias resolution, it will pre-suppose that we can insert in our Constitution some precepts which may not be in accord with the provisions of the Tydings-Mc-Duffie Law. Consequently, the President of the United States will have to return the Constitution to the Philippine Islands, advising the Governor General thereof, and stating that, in his judgment, the Constitution does not so conform. The Governor General shall in turn submit such message to the Constitutional Convention for further action until the U.S. President and the Constitutional Convention are in agreement. This is in accordance with the provisions of Section 3 of the Tydings-McDuffie Law. It is a dilatory process that will inevitably happen if the Osias resolution is approved, and we will make a see-saw out of our Constitution and eventually delay the advent of our independence.

Mr. President, I will now come to my third and last argument. We should be consistent in our actuations and dealings with the Congress of the United States and in our compliance with the mandate of the Philippine Legislature and of the constituents we represent in this Convention. The Congress of the United States in passing the Independence Law, saw it necessary that a government of the Commonwealth be organized and inaugurated to last during the transition period of ten years or until the American President, in behalf of the United States, recognizes the independence of the Philippine Islands as a separate and self-governing nation. This is very clear, positive and mandatory. It cannot be denied. We find the phrase "the government of the Commonwealth of the Philippine Islands" in Sections I, II, IV, VII and practically throughout the law.

Our Philippine Legislature, in compliance with the provision of Section I of the Tydings-McDuffie Law, passed Act No. 8025 providing for this Constitutional

Convention with the express mandate that we organize and inaugurate the Government of the Commonwealth of the Philippine Islands. We were elected by our respective districts in the belief that we would organize and inaugurate such government. So why change our front? Why not call the Constitution we are to draft as the Constitution of the Government of the Commonwealth of the Philippine Islands, since that is the name of the government we are authorized to organize and inaugurate? Indeed, it is ridiculous and highly repugnant to human conscience to call this document as the Constitution of the Philippine Republic under the Government of the Commonwealth of the Philippine Islands. It is a clear misnomer. **Why not call a spade, a spade; a horse, a horse; instead of a dog, a cat; a cow, a carabao?** Mr. President, we must call the forthcoming constitution as the CONSTITUTION OF THE GOVERNMENT OF THE COMMONWEALTH OF THE PHILIPPINE ISLANDS, and strictly not the constitution of the Philippine Republic. We are not charged with the duty and mandate to organize and inaugurate the Philippine Republic, but, the Government of the Commonwealth of the Philippine Islands. I thank you.

SR. CARAM: Para algunas preguntas al orador, señor Presidente.

EL PRESIDENTE: El tiempo del orador ha expirado, y para que pueda contéstar a las preguntas es necesario el voto unanime de la Asamblea.

MR. REYES: The next Speaker is the Delegate from Camarines Sur, Mr. Abella,

EL PRESIDENTE: Tiene la palabra el Delegado por Camarines Sur.

DISCURSO DEL DELEGADO ABELLA

SR. ABELLA: Señor Presidente y Caballeros de ésta Asamblea: La imprevision, y acaso una buena falta de prudencia, han hecho que sobre la placidez y concordia aqui imperantes durante aquel concurso de oratoria constitucional, originado por el privilegio de la media hora, se oiga una tremenda interrogacion, de cuya acertada respuésa depende, sin duda alguna, la contextura esencial y, por ende, los destinos futuros de nuestra patria. Tanto se han agitado los animos, y el amor propio tambien, aunque nada de esto se diga, a tal extremo ha llegado la diseccion minuciosa de la Ley Tydings-McDuffie y de la ya famosa Resolucion Osias que, para mi al menos, soy del parecer que se impone una declaracion inequivoca, un pronunciamiento definitivo sobre este lamentable éstado de opiniones encontradas que poco a poco, gradualmente, irresistiblemente, nos ésta conduciendo a las grandes escisiones, a los secclonalismos de opinion, origen matriz, despues, de todos los estorbos y dificultades en nuestra labor de estructuracion integral de las leyes constitutivas del pais.

Por eso, Señor Presidente, lo que al principio consideraba innecesario, superfluo, la Resolucion Osias, porque con anterioridad a estos debates, el espiritu prevaleciente entre los distinguidos componentes de ésta Convencion era que se redactaba una Carta de Libertades para Filipinas, sin consideraciones de plazos ni de tiempo; al cabo de prolongadas discusiones parlamentarias, en que se han herido muchas susceptibilidades, y lo que es mucho peor todavia, se han suscitado dudas que hacen necesario y de importancia vital e imperativo que se despeje de una vez la incognita y ésta Asamblea la resuelva, como una entidad responsable y consciente de sus deberes, considero ahora el problema mayor sobre la naturaleza de sus

futuras actuaciones y principios normativos.

A lo mucho que se ha dicho aquí por nuestras más destacadas espadas jurídicas y constitucionalistas, poco o nada nuevo se puede añadir. Me limitare, pues, a efectuar un estudio ponderativo de los hechos que creo están probados con suficiencia para llegar a mi propia conclusión.

Un vocablo familiar ha bailado constantemente en nuestros timpanos en el curso de estos debates, vocablo que constituye la clave, el argumento Aquiles de los vigorosos y denodados sostenedores de la oposición. Me refiero a MANCOMUNIDAD O COMMONWEALTH. El significado del término ya lo ha deslindado, usando de una cita, el batallador Caballero de Batangas, en un folleto repartido ayer a los Colegas. Para mí, proviniendo de donde proviene la acotación, que es la suma de los diccionarios legales, el diccionario de Bouvier, hay bastante para demostrar que COMMONWEALTH significa también república. Como si esto no fuese suficiente, empero, la mayor autoridad no técnica en materias lexicográficas, el diccionario internacional de Webster, dice: SINONIMOS DE COMMONWEALTH, STATE, REALM, REPUBLIC.

De manera que, viendo susceptible este vocablo de dos significados diferentes, uno limitado y otro general y comprensivo, el sentido común, la lógica, un razonamiento recto y acertado nos impelen irremisiblemente a acudir a todo el contexto del estatuto americano con vistas a extraer del mismo la luz explicativa necesaria que arrojaría las implicaciones y deducciones. La substantividad integral de una legislación determinativa de su significado, no se contiene en un artículo maxime si hay dudas de interpretación de palabras equívocas, de doble significado, sobre las cuales gravita, por así decirlo, todo el peso de la esencia del estatuto. Así lo ordena una buena hermenéutica legal como enunciaría oportunamente el ilustre tribuno de Cebu, Delegado Briones.

Al trasladarnos a la consideración de los demás artículos de la Ley Tydings-McDuffie, hallamos al instante que estos son, unos para el período transitorio y otros para este período y la República. Algunos alegan que existe un tercer grupo de disposiciones que son exclusivamente para la República Filipina. Esto se ha probado con bastante suficiencia, tanto por los propugnadores de la Resolución como por los impugnadores de la misma.

Huelga discutir nuevamente ésta materia por cuanto que todos, quien más quien menos, saben su naturaleza y alcance. No voy a ser machaquito ni habré de repetir lo que tantísimas veces se ha venido repitiendo por nuestros más conspicuos parlamentarios.

Hay un hecho significativo y es que la Ley de Independencia Tydings-McDuffie no hace una declaración clara y definitiva sobre la naturaleza y alcance de los poderes que sus disposiciones otorgan a la Asamblea Constituyente al redactar la Constitución. Siendo este el estado de cosas, agravado a raíz de las encontradas elucidaciones y choques de opinión expuestos, e imponiéndose, por otra parte, la necesidad urgentísima de definir nuestra actitud, ¿no cree la totalidad de ésta Asamblea que la propia conveniencia, la recta razón, el sentido más ordinariamente común, y ante todo y sobre todo, nuestros intereses de patria, dictan, por modo imperativo, que resolvamos la duda en favor de nuestra causa nacional? No veo ninguna razón que abone el sentir contrario a lo enunciado. Hemos luchado en el