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APERTURA DE LA SESION

A las 4:10 p.m. el Secretario de la Asamblea Constituyente llama al orden a los señores Delegados y da cuenta de la comunicacion del Presidente designando al Delegado por Cagayan, Hon. Vicente Nepomuceno, como Presidents Interino.

(El Sr. Vicente Nepomuceno fcupa, la presidenta.)

EL PRESIDENTE INTERINO: Léase la lista de Delegados.

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

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

APROBACION DEL ACTA

SR. MARAMARA: Señor Presidente, pido que también se dispense la lectura del acta, y que la misma se dé por aprobada.

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

CONTINUACION DEL DEBATE SOBRE EL PROYECTO
DE CONSTITUCION

EL PRESIDENTE INTERINO: Está en orden ahora la continuación de la discusión del Titulo referente al Poder Judicial, del Proyecto de Constitucion.

SR. VENTURA: Señor Presidente, el primer orador a favor del Proyecto es el Delegado por Zambales, Señor Labrador.

EL PRESIDENTE INTERINO: Tiene la palabra el Delegado por Zambales.

DISCURSO DEL SR. LABRADOR

MR. LABRADOR: In banc, the method in conference, is to begin with the junior Justice and proceed around the table to the Chief Justice, each Justice, as his turn comes, being permitted to present a case. He does this by first distributing the bills of exceptions, or the records on appeal, if any, and the briefs or, if the case is important or complicated, by asking for a special assignment for a certain day. Then he distributes the briefs and bills of exceptions or records on appeals, if any, to each member of the Court participating. He reads the bill of exceptions or the records on appeal, if any, and the briefs.

When all have concluded their study of the case, the Justice in charge of the case makes a statement, after which the case is thrown open for general discussion.

Should any member entertain a doubt on a question of fact—and this happens frequently—he takes the record for reading and the discussion is postponed to another day.

When the discussion is concluded, the Justice presenting the case makes his proposition, as for example, that the judgment be affirmed. The Chief Justice polls the Court and the members vote on the motion. Should the proposition of the Justice presenting the same prevail, he writes the decision in accordance with the vote. Otherwise, the Chief Justice assigns the case anew to a member of the Court whose views tally with the majority of the court, in order that the decision may be prepared. After the decision is prepared, if there is one member or more dissenting, the decision is turned over to the dissenting Justice or Justices so that the dissenting opinion may be attached to the decision. Thereafter, the majority opinion, with the dissenting opinion, is circulated among the members for their signatures. If all of the members participating have indicated their non-conformity, the decision is handed to the Chief Justice and the following morning he gives the decision to the clerk, who announces The title and number, the name of the Justice writing the decision, and those of the Justices concurring. The case is then considered promulgated and a record of the same is made in the judgment book and in the minutes of the court.

The procedure in division is slightly different. Here each member of the division has a day for the submission of his cases. In the matter of presentation and voting, the same method is followed, however, as in abnc. If in division the vote on the case should be two to two, or if any member should dissent on a legal question, the case is transferred to the court in bane for decision. For special proceedings and important motions, as these are filed, they are placed before the Chief Justice, who assigns them to the members of the Court.

SR. SAGUIN: Señor Presidents, para algunas preguntas al orador.

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

SR. LABRADOR: Sí, Señor.

SR. SAGUIN: ¿Quiere decir Su Señoría que el sistema actual de la Corte Suprema es deficiente por cuanto que podría suceder el caso de que un litigante o una persona interesada por el litigante, se acercara a un magistrado e hiciera con él algún convenio?

SR. LABRADOR: Sí, Señor; creo que hay un defecto en este procedimiento, porque crea la tentación de que un litigante pueda usar de su influencia para ganar a su favor a los Magistrados.

SR. SAGUIN: ¿No cree Su Señoría que eso mismo podría ocurrir en la Corte Intermedia, con más facilidad, porque sus miembros serán más accesibles, relativamente hablando, que los de la Corte Suprema?

SR. LABRADOR: No lo creo así, Caballero de Zamboanga, porque los asuntos son muy limitados y debemos tener en cuenta que si concedemos a la Corte Suprema la única función que se llama de casación. o sea, para decidir cuestiones de derecho solamente, los asuntos serían muy pocos y no habría necesidad de adoptar el

procedimiento actual que tiene que seguir la Corte Suprema para poder despachar todos los asuntos.

Para informar mejor a los distinguidos Miembros de esta Convención, voy a anticipar qué la Corte Suprema de los Estados Unidos no designa. antes de la decisión, quién va a ser el ponente de un asunto. Todos estudian el asunto, así es que un litigante no sabe quién va a decidir el asunto y así no puede influir en ninguno de los Magistrados.

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

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

MR. LABRADOR: Willingly.

MR. SANTOS: In speaking of the defect in the system, does not the Gentleman think that it is not a defect of the Supreme Court itself but of the system adopted?

MR. LABRADOR: It is a defect in the system, but the system is defective because there is no better one that could be devised. It would be impossible for the Supreme Court, if it works as a whole, to decide two thousand cases in one year. The Supreme Court of the United States, composed of nine members, decides only 700 to 900 cases, so that each member disposes of only around 100 cases a year. In contrast, our Supreme Court disposes of 2,000 cases and according to the data submitted by the Delegate from Leyte, Justice Romualdez, a Justice has only one and one-half days to study a case, I contend that if we do not establish the court of appeals, it would be impossible for the court to revise its procedure in such a manner as to have more time in the study and deliberation and decision of cases.

MR. SANTOS: The Gentleman stated that regularly 2,000 cases come to our Supreme Court every year. Now, suppose a system is adopted—for instance, we make three divisions out of the members of the Supreme Court—that will make an average of about 600 cases for every division. Shall we not then be able to do what is being done in the United States?

MR. LABRADOR: But in that case, only three Justices will constitute a division; and since there will be three divisions, there will also be three lines of decision, no uniformity. That is precisely why the present system of division is objectionable: there are three divisions, each maintaining a line of decisions which may contradict another division. In which case, the decisions would be confusing.

MR. SANTOS: Is it not true that in the early days of our Supreme Court...

MR. LABRADOR: In the early days of our Supreme Court, the Justices worked in bane, without any division. The procedure was different because the number of cases was less than now.

MR. SANTOS: But is it not true that during those days better decisions were made?

MR. LABRADOR: Yes, because there were less cases and all the cases were decided by all the members. In contrast, at present only three take up the cases and since each Justice has one and one-half days to study and decide a case, what time has

he for deliberation and consultation with other members of the Court?

MR. SANTOS: Does not the Gentleman think that that was partly because in the early days of our Supreme Court, cases were generally assigned to supposed authorities. For instance, all civil cases were customarily given to Chief Justice Arellano, criminal cases to Justice Florentine Torres, and so forth. In other words, if a system is adopted, confining each division to its particular field, the kind of decisions evolved will be to the liking of those who advocate the establishment of a court of appeals.

MR. LABRADOR: That would be impossible because there would be divisions overcrowded with work, and divisions with little if not no work at all, with the consequence that there will be no uniformity in the amount of labor performed in the divisions.

MR. SANTOS: If the object is to make good decisions, could not this be effected by assigning each division to a particular branch of law?

MR. LABRADOR: Willingly.

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

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

MR. LABRADOR: That would be impossible because there would be division overcrowded with work, and divisions with little if no work at all, with the consequence that there will be no uniformity in the amount of labor performed in the divisions.

MR. GRAGEDA: Speaking of the Supreme Court of the United States, the Gentleman cited the fact that each Justice decides only 100 cases a year.

MR. LABRADOR: May I ask the Gentleman to wait until we reach the procedure adopted by the Supreme Court of the United States? I just want to finish.

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

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

MR. LABRADOR: Willingly.

MR. SANDOVAL: Does the Gentleman mean that the other members of the court do not study the records?

MR. LABRADOR: They have no time to study the record because there is only one record. This is available only to the one to whom it is assigned.

MR. SANDOVAL: If that is true, how can there be dissenting opinions?

MR. LABRADOR: Well, when a Justice is particularly interested, perhaps it might come to his mind to study the case.

MR. SANDOVAL: So in some instances, the other Justices may also study the case.

MR. SANDOVAL: Yes.

MR. LABRADOR: Even if they wished to, they have no material time for a full study because their time is spent in studying the cases assigned to them.

MR. SANDOVAL: Now, just another question. According to the Gentleman, the anomaly is that the name of the opponent is known by the Justices.

MR. LABRADOR: Yes. That is well known to the members of the Bar practising before the Supreme Court.

MR. SANDOVAL: Is it not a fact that the opponent's name, according to the rules of the court, is not referred to the litigants?

MR. LABRADOR: But in some way or other, it leaks out.

MR. SANDOVAL: But any leaking out of the name is from the clerk.

MR. LABRADOR: Granting that it is from the clerk, to avoid an evil, we should not create the temptation.

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

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

MR. LABRADOR: Willingly.

MR. GRAGEDA: I have read that the procedure in the United States Supreme Court produces good decisions. Can we not also have good decisions by following the method of the United States, without the necessity of establishing courts of appeals?

MR. LABRADOR: I believe that it would be impossible to adopt the procedure followed by the Supreme Court of the United States because the number of cases handled here is around 2,000, whereas the Supreme Court of the United States handles only around 700 or 1,000 decisions a year for each member. It is impossible to adopt this procedure if a Justice has to decide 2,000 cases a year. Aside from this, in the Supreme Court of the United States, 30 per cent of the work consists of the state records,—only questions of law are brought before the Supreme Court of the United States. If only questions of law were brought before the Supreme Court of the Philippine Islands and questions of fact retained or granted to the Court of Appeals, the Supreme Court would have sufficient time to decide in the procedure followed by the Supreme Court of the United States even if composed of only five Justices.

MR. GRAGEDA: Does the Gentleman mean that even though we establish courts of appeals, it would not be possible to have all cases appealed to the Supreme Court in both questions of law and of fact?

MR. LABRADOR: I stated at the beginning of my address that the only point I am discussing here is the question of the establishment of the court of appeals. I