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APERTURA DE LA SESION

Se abre la sesión a las 10:20 a.m., ocupando el es-tratado el Presidente, Hon. Claro M. Recto. EL PRESIDENTE: Se abre la sesión.

DISPENSACION DE LA LECTURA DE LA LISTA Y DEL ACTA

SR. GRAFILO: Señor Presidente.

EL PRESIDENTE: Señor Delegado.

SR. GRAFILO: Pido que se dispense la lectura de la lista y del acta y que se dé ésta por aprobada.

EL PRESIDENTE: Si no hay ningnna objecion, asi se acuerda. **(No hubo objecion.)**

SPEECH OF MR. VINZONS AGAINST DRAFT OF CONSTITUTION

MR. VINZONS: The draft of the Constitution now before me is on the whole a meritorious document. The trials and tribulations of the Sub-Committee of Seven that drafted this Constitution have been recorded by its Chairman for the delectation of posterity. The historian of the future, Mr. President, will point to no greater achievement of this Constitutional Convention than that of seven learned men who, in a creditably short time of six days, were able to translate into an immortal document the habits, the customs, and even the very idiosyncracies of the Filipino people. All charges, Gentlemen of the Convention, that this draft of the Constitution contains no political philosophy have been alluded to as calumny, and all claims that the proponents of the draft were blissfully and utterly ignorant of the purposes of a written Constitution have been considered as mere fancy. But, Mr. President, to go into a series of praise for this draft of a Constitution is slander in disguise, because the draft as presented bears all the earmarks of circumstances under which it was considered: the haste of the Committee on Sponsorship to submit a draft of a Constitution on the floor of this Assembly. The report of the Sub-Committee of Seven very humbly says that the draft has been made, taking into consideration the various committee reports of this Convention, but upon a closer and a more painstaking study, Mr. President, it is very easy to discover that the 17 committee reports of the original committees constituted by this Assembly have been entirely disregarded by the Sub-Committee of Seven; that 14 committee reports have been partially adopted and only 5 committee reports have been fully adopted by the Sub-Committee of Seven. While they say, Mr. President, that the original committee reports have been considered in the making of the draft, we can easily answer in a counterstatement that in every article, in every provision, the seven Members of the

Sub-Committee have left an imprint of their own peculiar and creative geniuses. It reminds us, Mr. President, of an artist's assistant who was given by his master an outline of a painting and, inspired by his own creative nature, indiscriminately splashed the canvas with paint in his effort to create a modernistic painting of his own design.

Mr. President, the draft of the Sub-Committee of Seven contains various provisions, but its defects consist in the failure to appreciate the tradition, the history, the political training and the racial characteristics of the Filipino people. In the first place, Mr. President, this draft of a constitution was sought to reestablish a bicameral arrangement in a unicameral body by the establishment of a permanent commission, which was in effect a bicameral system and a triumph of election at large, indirect election and proportional representation. In the second place, this draft of the Sub-Committee of Seven unduly and improperly strengthens the powers of the Executive and suppresses the legislative primacy without considering that the racial characteristics of the Filipino people will eventually give rise to dictatorship in these Islands. And in the third place, the draft of the Sub-Committee of Seven has closed the doors to the establishment of a parliamentary system of government.

I shall first dwell on the proposition that I have stated, that the draft of the Sub-Committee of Seven reestablishes a bicameral system of legislature in a unicameral body. In Article VII of the draft, there is a provision for a permanent commission consisting of 35 members elected by the National Assembly on the basis of proportional representation and election at large. This Convention, Mr. President, has refused the reestablishment of a bicameral legislature, but by giving to the Permanent Commission the power of confirming presidential appointments, the power of initiating and recommending legislation, it, in effect, reestablishes that very odious system of legislature. Mr. President, the Permanent Commission, as it is constituted, will have all the defects of the present Philippine Senate. It will consist of certain members of the National Assembly, and we must therefore expect that the leaders of this Assembly will be the ones elected to that Commission. Giving it the right to initiate and recommend legislation is, in effect, reviving the Philippine Senate because, with the key position and their influence in the National Assembly, the Permanent Commission will be able to push through measures that they recommend. The only power, Mr. President, that has been withdrawn from the Permanent Commission is the power to pass over the recommendation of the National Assembly itself. Giving the power, Mr. President, to the Permanent Commission of confirming the appointments by the President is in effect reestablishing the confirming power of the Senate. If we objected to the reestablishment of the Philippine Senate, because it did not secure responsibility in legislation, if we refused to sanction the existence of that Upper Chamber because it developed aristocracy in our Government, why did the Sub-Committee of Seven establish a permanent commission consisting of 24 members and the Speaker elected by proportional representation and possessing the powers that the Senate now enjoys?

In the second place, Mr. President, the Sub-Committee of Seven has violated a fundamental principle in the doctrine of the separation of powers. The theory that the powers of government are divided into legislative, executive, and judicial was initiated by Greek Philosopher Aristotle and taken up by the Roman Senator Cicero. Montesquieu discussed it elaborately in his **Spirit of Laws** and went further to say that if powers of legislation were vested in the Executive, a virtual tyrannical

monarch would be established. It has been said, Mr. President, that there can be no clear division of powers among the three departments of government. The theory was well expressed by Justice Holmes in a decision penned for the American Supreme Court when he stated in this manner: "The great ordinances of the Constitution do not divide and separate philosophy in black and white." Even the most specific of them terminates in a penumbra, shading gradually from one extreme to the other. It is thus contended that the division of powers cannot be made clear and definite, but I claim that in giving the primacy to the Chief Executive, we may commit a bad mistake, an error, committed by Latin America in her Constitutions.

We have, Mr. President, a French authority on this matter. When the Latin-American states formed their Constitutions, they copied the American system of government, investing in the President great powers not only executive in nature but also legislative. It has been said that Latin American has been so frequently the scene of dictatorship that the system of government there has been nothing more or less than an attempt of a strong man to perpetuate himself in power. What, Mr. President, is the fundamental defect of the Latin-American republics? It is not the form of government, because what they have established is similar to that of the United States. According to the French authority, it lies deep in the structure of the Government, in the constitutions. The Latin constitutions grant to the Executive vast powers without realizing that the Latin-American people are not well prepared for such powers for the Chief Executive.

According to John Stuart Mills, in the consideration of a good constitution, we should take into account, first of all, the habits and customs of the people; second, the political training and experience of those people; third, their history and social progress; and, finally, the national characteristics. In the South-American republics, Mr. President, there is no well-developed public opinion, no well-established tradition of strong political parties. As a consequence of this, the very fundamental laws themselves contain the very inducement to the emergence of a strong man who is likely to seize the powers of government, at any opportunity that comes. As a result of this, Mr. President, the South-American republics have been unfortunately the scene of civil wars and revolutions. We do not want to establish in the Philippines « system of government that would sanction the same seizure of powers by the President, and yet the Sub-Committee of Seven grants powers to the President that may be used by a strong man. In the first place, the Legislature is deprived of the power of initiating the budget by vesting the power in the Chief Executive. This is copying the system of England, but without implanting Cabinet responsibility here. In the second place, the power of the executive veto is extended. It is extended in two ways: first, by enabling the President to veto any source of tax, and, secondly, the President's veto over an increase of public debt and over an annual appropriation exceeding ten per cent of that of the previous year must be approved by two-thirds of the Legislature. This, Mr. President, would be sufficient to establish here the primacy of the Executive as against the supremacy of the Legislature, but the Sub-Committee of Seven does more than that. They give to the President a vast ordinance power. The provisions state that in cases of war, of national emergency, the Legislature may give to the President, for a limited period, the power to promulgate rules and resolutions. I do not know, Mr. President, what inspired the Members of the Sub-Comite, except perhaps the apparent success of the National Recovery Administration in the United States. But the NRA was made not because of an inherent power of the Chief Executive to issue ordinances. In cases of national

emergency, without giving sanction in the fundamental law itself, the Legislature or the people may confide vast powers in the Chief Executive. Some such powers were exercised during the civil war by Lincoln and during the world war by Wilson. They were likewise exercised by Theodore Roosevelt, and they are now being followed by Franklin Delano Roosevelt. There is no necessity, Mr. President, to sanction an establishment of a vast ordinance power for the President. That will be given in the nature of events by the Legislature or by the people.

Now, Mr. President, what are the checks established by the Sub-Committee of Seven in order to curtail the abuses of the powers by the Chief Executive? The Gentleman from Capiz, Mr. Roxas, mentioned public opinion first. Public opinion in this country, as can be testified to, is not well developed. The newspapers here do not count with a large circulation, their readers are only a small proportion of our population. Public opinion, therefore, to curtail the vast powers of the Chief Executive, cannot be relied on. Public opinion in this country must first be developed before we can give vast powers to the Chief Executive.

The second restriction mentioned is the power of the Legislature to impeach the President. The power of impeachment, Gentlemen of the Convention, is a dead letter-law in any constitutional provision. In the United States of America, there has been only a single instance of a President impeached. President Johnson was tried by the American Congress, but his impeachment failed by a single vote. I ask, Mr. President, any proponent of the draft to point to a country with a presidential form of government, under a constitution authorizing impeachment, that has ever impeached a President. I would say, Mr. President, that, perhaps, a greater restraint on the executive power is the provision of a six-year term with no reelection immediately following. The experience of South-American countries must have been the source of inspiration of the Sub-Committee of Seven. The country of Mexico, from 1884 to 1910, was controlled by a single man because the Constitution simply said that the President should serve for ten years; it did not say when he should cease. What happened, Mr. President, was that a single man, President Diaz, remained in power for more than thirty years because he had himself reelected all the time. Then the Constitution of Mexico was changed so as to provide for the election of a President for a term of four years with no reelection. But the provision of the draft of our own Constitution does not go that far. It provides for six years without reelection immediately following but allows reelection after the intervening term.

Mr. President, in a country with the Latin temperament and the desire of the individual to perpetuate himself in power, against Oriental background which always follows the predominant and powerful party, a President in the Philippines may get himself reelected after every intervening term. That can be easily accomplished, Mr. President, because the President, has a political power of paramount importance, because the President cannot at any time deny the necessity of emergency labor, whether it is based on a "colorum" uprising. Thus, the Chief of the Commonwealth, after his term, may have one of his men elected as President and after the following term have himself reelected. Two Presidents may succeed each other indefinitely and perpetually, as it was done in the Republic of Mexico. The basis of this provision is in the Constitution of Argentina which provides for six years with no immediate reelection. But, Mr. President, the arrangement in Argentina has not proved satisfactory to the people, and in all the countries where the Chief Executive may be reelected, the movement is for election only to a single term. Even in the United

States, the movement has gained ground. It was the basis of the platform of President Wilson in the election of 1914.

Another point I would like to discuss in some detail, Mr. President, is that portion relating to the omission of provisions guaranteeing local autonomy. It has been said by the French political scientist H. Tocqueville, that in France or in any other European country, democracy has never been established on solid ground because the people have been deprived of local autonomy. It has been said here that ours is a unitary state, the municipalities and provinces merely creatures of the Legislature. We, Mr. President, are in favor of the continuance of a unitary system of government, but at the same time, in order to lay a solid foundation for a democratic government, we advocate the grant of political autonomy to the local governments. It has been said, and with a great deal of truth, that the Chief Executive at Malacañang or the Secretary of the Department of Interior, by a mere touch of the button, can hold in his control the last policeman, the last capataz, the last constabulary man. The system of government, as it is at present, is so made that it is interwoven, and we are lost in the complexity of its toils. Our system of government now, Mr. President, has established the Provincial Board with no powers except those similar to the Road and Bridge Commissioners of the United States. The Provincial Board has become the center of political intrigue. It has not done any constructive work for the province. The Chief Executive of the province and the Municipal President, who represent the ultimate unit of political government, are always under the beck and call of the Secretary of the Interior. Our position, therefore, is that we are trying to plant the tree of democracy but at the same time we are stifling its very roots. In order to implant a real, responsible, democratic government, we should begin from its very beginning. We should start from its roots, so that the tree will bear fruit, and will endure. That, Mr. President, is the definition of Lord Graham of a good and lasting constitution.

Another odious distinction of this draft is the maintenance of the abominable distinction between the special and regularly organized provinces. This distinction has been the result of a prejudice against granting equal political and civil rights to the non-Christians in this Archipelago, and while those people have been experiencing reforms, the Constitution, as it is drafted now, maintains that odious distinction and relegates the special provinces to a permanent state when they will have to continue to endure the appointive system as regards their local officials. One of my campaign issues was that I would help the non-Christians in attaining the political and civil rights of the Christians, and I am convinced by the Delegates from Lanao, from Zamboanga, from Bukidnon and from other non-Christian provinces, of the desire of the inhabitants of these provinces to attain political and social equality. We may say that the delegates from Sulu are against the political emancipation of the Mohammedans in that province, but if their Delegates so desire, we should maintain only the classification of "special" for the Province of Sulu. Mr. President, the Sub-Committee of Seven has not only totally disregarded seventeen committee reports and partially disregarded fourteen committee reports; it has in effect adopted contrary principles to those reported by the original committees. In the first place, I would cite the establishment of the intermediate court of appeals. The judiciary committee debated on the subject for more than a month and agreed to approve the establishment of the intermediate court of appeals. The Sub-Committee of Seven deliberated over the same proposition in six days, saw fit to establish an intermediate court of appeals.