

**JOURNAL No. 36**

APERTURA DE LA SESIÓN

**Se abre la sesión a las 5:07 p.m., bajo la presidencia del Presidente, Hon. Claro M. Recto.**

EL PRESIDENTE: Se abre la sesión.

DISPENSACION DE LA LECTURA DE LA LISTA

SR. ABORDO: Señor Presidente.

EL PRESIDENTE: Señor Delegado.

SR. ABORDO: Pido que se dispense la lectura de la lista, presumiendo la presencia de 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, presumiendo la presencia de un quorum.

DISPENSACION DE LA LECTURA DEL ACTA

SR. ARTECHE: Señor Presidente.

EL PRESIDENTE: Señor Delegado.

SR. ARTECHE: Pido que se dispense la lectura del acta correspondiente a la sesión del día 10 de septiembre de 1934, dandose la misma por aprobada.

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

Se dispensa la lectura del acta, dandose la misma por aprobada.

DESPACHO DE LOS ASUNTOS QUE ESTÁN SOBRE LA MESA DEL PRESIDENTE

EL PRESIDENTE: Léanse los documentos recibidos..

**El Secretario los lee**

MR. REYES: Mr. President.

THE PRESIDENT: The Gentleman from Sorsogón.

MR. REYES: Mr. President, I yield the balance of the time of the affirmative side to the Delegate from La Union.

MR. OSIAS: Mr. President.

THE PRESIDENT: The Gentleman from La Union has the floor.

#### SPEECH OF MR. OSIAS

MR. OSIAS: Mr. President, and Gentlemen of the Convention: Privileged to make use of the remaining minutes of the ten hours allotted to the debate by agreement of both sides, I beg leave to request my colleagues to allow me, my time being limited, to make a connected statement.

Mr. President, it must be a source of gratification to all Members of this Convention to have witnessed this long debate carried on in a nonpartisan spirit. All participated in discussing the question at issue calmly, dispassionately, and on a high plane. These facts have commended themselves to public opinion meriting editorial comments. Furthermore, this augurs well if continued into the future work to be undertaken by this Body, and together, I believe they constitute a veritable asset to this Convention. This debate has also served to dissipate much of the confusion, that originally existed. It has compelled thinking and study on the part of the Members of this Convention. It has crystalized opinions in this Body with respect to the nature and scope of the constitution that we should approve, all these, in my humble judgment, have deepened the confidence of the public in this august Body and constituted the country's gain.

I wish to address myself for a few brief moments to the main arguments advanced against the pending resolution. The first is a legalistic consideration having to do with the question as to whether or not the Constitutional Convention is clothed with the power to draft a constitution both for the Commonwealth and the period that shall ensue after expiration of the period of transition.

Many of our legal luminaries whose names and fame in the Bar of this country are secure have expressed themselves at variance with one another. It is pleasing to note—certainly it is to me—that the very ones who opposed the resolution are men who hold to the belief and conviction that this Constitutional Convention is clothed with powers to approve a constitution not only for the Philippine Commonwealth but also for the government that shall supersede the Commonwealth once the period of transition has expired. None who opposed the resolution cited an opinion or a provision of the law prohibiting us from approving or formulating a constitution for both the Commonwealth and the Republic. On the other hand, those who believe that we do have that power cited several sections of the Act and several precedents to show that we do have the power to approve a constitution that shall extend beyond the ten-year period of transition, and that this constitution we are to draft and formulate shall be not merely provisional in nature but relatively permanent as human beings are permanent.

The next question that was harped upon was that this resolution is unnecessary. Yet I would say that the divergence of opinion existing among those who rose to speak against the resolution is positive proof of the necessity of taking definite action. I contend, Mr. President, with those who have spoken in favor of the resolution that definite action upon it is necessary.

We want to know what guide we shall have in the labors of our respective committees and of the Convention as a whole. We are now busy at work in the Committee on Sponsorship deliberating upon the preamble of the constitution. I cite this to prove the necessity of action upon this resolution because a phrase found in the preamble submitted by the committee headed by the distinguished Delegate, Mr. Romualdez, used these words: "to secure the blessings of liberty and democracy to ourselves and our posterity." Unless the constitution that we are to draft and formulate is to continue or be more or less permanent, there will be redundancy in the use of the word "posterity." If we should desire to adopt a constitution only for the Commonwealth, then we should say we are approving a constitution to secure for ourselves for ten years the blessings of liberty and democracy. I repeat, we need a definite guide for our decision—a decision that shall be self-imposed and not imposed from without.

The other point is that if we approve a constitution for both the Commonwealth and the Republic we would be binding the hands of future generations; we would be closing the avenue to those who will come after us, and tying the hands of the youth. The answer, Mr. President, is that all constitutions are made for the future, never for the past and never for the present. What is the difference between formulating a constitution for ten years and another for ten years and one month, or eleven years?

If we respect the dignity of a Body such as this, as well as the mandate binding our own election to come here, then we should not shirk our responsibility in framing a constitution for all time if need be because in so doing, we are not binding the hands of the future for I take it that every well-ordered constitution shall provide the means for amending it, either in toto or in part. Anent the argument that we are binding the hands of the youth who will be affected, my answer is that far from tying their hands, we are unloosening the bonds that tie them to a future of dependency and affecting the instrument for their own liberation.

The argument that merits serious attention is the one adduced by two or three Gentlemen respected in this Convention and in our country, among them the Delegate from Tayabas, Mr. Reyes; namely, that we should not place a check upon our sovereignty, that we should not allow the President of the United States to have a check on an act which should be purely sovereign by giving him a hand to pass judgment upon the constitution for a future republic.

I admit that this observation is meritorious of our serious attention; their side, presented ably, merits our study, thought and reflection. I simply place the other side of the picture. Is it not a source of pride and satisfaction? Should it not be a source of satisfaction to the Filipino people that even under a state of dependency, with the Stars and Stripes still waving over us, we are permitted to deliberate upon a constitution not only for the Commonwealth but also for the Republic? And when this constitution for both types of government shall cross the vast Pacific for the examination of the U.S. President, not for his disapproval but for this examination, if the President should see fit to place his sanction upon that instrument, then great would be the gain for our country because ours will have been the privilege of having drafted an instrument, a constitution that has merited the virtual sanction of the President of the United States, the country whose friendship we shall need for all time to come. **(Applause.)**

Mr. President, I will emphasize three or four points in the few minutes remaining. What have we been fighting for? We have not fought for a Commonwealth, we have not fought for this government for ten years. Our spokesmen—thanks to the blessings of the Filipino people thirteen million of them—were sent with the mandate that they should labor for independence; and now shall we refuse to draft an instrument for an independent government? We have fought for independence for what? To end in uncertainty, and now we are going to prolong that uncertainty and by our own choosing. If we approve a constitution—and this is my second point—not only for the Commonwealth but for the Republic, we shall be reasserting anew our determination not to be content with a type of government other than that which is free and independent.

Mr. President, we have announced to the world that independence is what we want. Now is our opportunity to announce in this Convention, to announce in this country, to announce to America, to announce to the world, that at our first opportunity we reaffirm our determination to be independent and free. **(Applause.)**

Mr. President, I want to call the attention of the Members of this Convention to the only clear and unequivocal pronouncement of a Congressional Body on the purpose of the law. When the original Hare-Hawes-Cutting Bill was approved by the Senate Committee on Territories and Insular Affairs in its report, Report No. 781, page 3, 72nd Congress, analyzing the purpose of the Bill, we have this statement—I am quoting what it says: "In a general way, S. 3622 may be said to contain four major purposes as follows: (1) To provide for the drafting of a constitution for a free and independent government of the Philippine Islands."

Analyzing in detail the contents of the Bill, said report provides as follows: "In detail, the Bill (S.3622) provides as follows: (1) That the Philippine Legislature shall elect delegates to a constitutional convention for the purpose of drafting a constitution for a free and independent government . . ." The words are clear, and no man can show me any document that is a reversal of that statement of the Congressional Committee.

Mr. President, in closing I want to plead for a constitution that is continuous and permanent. As the very opponents of this Resolution contend, in Section 2, paragraph (b) Sub-section (2) provision is made for the continuation of the officers—the constitutional officers elected under the Commonwealth—in the government that shall follow. If that continuity is accepted, then greater should be the acceptance of the proposition of the need not only of the continuation of officers, but of the constitution, the instrument under which these officers shall operate.

Mr. President, there is less excuse for us than there was for the Members of the American Convention to provide for a more or less permanent constitution. Those men who were brave and bold took a courageous stand; they did not have the precedents that we have. We have as precedents not only the Constitution of the United States and the constitutions of different states of the Union but also those of modern republics and governments. We can and should draft a constitution not only for ten years but for the many years to follow. The degree of continuity and permanence of our work here is the measure of statesmanship of the Filipino people and their leaders. I plead that we go on record on the first opportunity to draft a constitution not merely provisional but permanent, and do something that will merit the respect of America, in keeping with the sacrifices of our people, and which shall

be to the complete satisfaction of the Filipino people's patience, patriotism, sacrifices, and martyrdom. I thank you.

SR. KAPUNAN: Señor Presidente.

EL PRESIDENTE: Señor Delegado.

SR. KAPUNAN: Me parece que hemos consumido ya todo el tiempo que nos pertenecía y que vamos a entrar en el debate de diez minutos por cada orador, según el acuerdo adoptado. Por consiguiente, voy a hacer uso del privilegio de los diez minutos, hablando el primero con el consentimiento de los compañeros.

EL PRESIDENTE: Tiene la palabra Su Señoría.

#### DISCURSO DEL SR. KAPUNAN CERRANDO EL DEBATE EN CONTRA DE LA RESOLUCION

SR. KAPUNAN: Señor Presidente y Caballeros de la Convencion: Como siempre he dicho, soy gran admirador del Comisionado Osias. Su discurso arrebatador es un titulo mas para que continúe siendo su admirador. Yo no poseo la oratoria de que el siempre ha hecho gala, y, naturalmente, tengo que valerme de otros recursos para inculcar a los oyentes mis ideas.

No me acuerdo en estos momentos quien fue el autor de la fabula de la zorra. Creo que si no fue Samaniego, lo fue Iriarte. La cuestion es que, cuando la zorra vio unas uvas, le gustaron tanto que quiso saltar para cogerlas, pero, como éstaban tan altas, se cansó y no pudo conseguir nada, y dijo para su propia satisfaccion: son demasiado verdes. Creo que lo mismo pasa ahora; que para mi son demasiado verdes los razonamientos del caballero de La Union. El dice que hay necesidad de que expresemos nuestro sentir, que hagamos una expresion de la actitud que debemos adoptar para formular la Constitucion. Pero si el Caballero de la Union ésta convencido, como yo lo estoy, de que la Ley Tydings-McDuffie es clara, es concisa sobre este punto; claridad y concision que, según el mismo, han comprendido los del Comité de Preamble al decir, al formular en el preambulo que la Constitucion no solamente ha de durar, no solamente ha de requerir el bienestar para la presente generacion, sino tambien para el porvenir; entiendo, caballeros, que ésta misma frase "para el porvenir" indica ya de por si el caracter que debe tener nuestra Constitucion. En otros terminos, en el mismo Preamble consta la naturaleza de ésta Constitucion, que ha de ser no solo para el periodo transitorio, sino tambien para cuando el pais sea declarado independiente. Yo, caballeros, francamente, como ya he dicho varias veces y aun lo voy a repetir, estoy en un todo conforme con los puntos de vista del Caballero de La Union, pero no veo la necesidad de que hagamos lo que se dice en la razon dada por el Caballero de La Union, razon que, según el, descansa en las divergencias de opinión ex-presasas aqui por cada uno de los que han tomado parte en este debate. A mi modo de ver, señor Presidente y Caballeros de la Asamblea, la divergencia entre las opiniones expresadas aqui se debe exclusivamente a nuestra naturaleza humana; pues, como sabemos, donde hay dos hombres, siempre hay divergencia de opinion, cuanto mas en una Asamblea compuéstá de doscientos hombres, y esto no quiere decir que prueba la necesidad de que adoptemos esa Resolucion.

Señor Presidente y Caballeros de la Asamblea: para pintar la situacion, me