

OUR FUTURE UNDER THE CONSTITUTION*

By SENATOR CLARO M. RECTO

This is the eve of not only Constitution Day but of the Silver Jubilee of its adoption. It was on February 8, 1935 at 5:45 in the afternoon, as recorded by one of its most distinguished chroniclers, Dr. José M. Aruego, that the text of the Constitution was put to a final vote for its approval by the delegates to the Convention. The vote was, to all intents and purposes, unanimous, despite the negative vote cast by Delegate Cabilil which was not really a vote against the Constitution but a manifestation of his objection to the method of enfranchisement of the province of Lanao for the election of its representatives to the National Assembly. Delegate Cabilil wanted an express provision in the Constitution itself for that purpose and not mere constitutional authority for a future ordinary enactment.

After voting on the Constitution, but before parting from one another, I gave a valedictory ending in a paragraph which I am going to repeat, with your gracious leave, in its original Spanish:

"Pasarán rodando al olvido y a la nada, los años y los lustros; nuevas generaciones sucederán a las presentes, cada cual con un idealero nuevo y su caudal de progreso aumentado o disminuido a través de siglos de ascensión o decadencia; el tiempo, en incesante devenir, hará en los mundos existentes su obra lenta, pero inexorable, de renovación y exterminio; y la humanidad, hastiada de sí misma y presa de nuevas locuras, arrojará una vez y otra al incendio de las espantables guerras del porvenir los tesoros de la civilización; pero cuando nuestros descendientes vuelvan la mirada al pasado en procura de inspiración y doctrina, y fijen su atención en esta ley fundamental que ahora sale de nuestras manos, confío en que la juzgarán reconociendo la altura de nuestros propósitos y la magnitud de nuestro esfuerzo, y verán que los cuidados y afanes que orientaron el curso de nuestra labor no fueron para recoger aplausos del presente y legar nuestros nombres al futuro en el bronce y mármol de una gloria perdurable. sino realizar para nuestro pueblo, por medio de esta Constitución, aquel santo anhelo que palpita en estas palabras llenas de sabiduría humana y de unción divina con que un ilustre prelado, gloria del sacerdocio indígena, invocó al Supremo Hacedor en aquel día memorable en que iniciamos nuestras tareas: 'Señor, Tú, que eres fuente de todo poder y origen de toda bienandanza, haz de Filipinas un pueblo feliz en el que reinas.'"

It contained melancholy premonitions about the future, and what seemed to be a prophecy of the total war that three years later was to bring misery and desolation to mankind was nothing more than the knowledge acquired from history of a phenomenon that recurs in cycles. But because I spoke in your name and expressed your feelings my parting words were, nevertheless, pregnant with hope for a great destiny for our people and with faith in the merciful Lord Who at that very hour was bringing them out of secular bondage.

That memorable day marked the birth of the Constitution of the Philippines. Almost one half of those of us who participated in its writing have crossed the Great Divide. The youngest among us today, like delegates Abella, Aldeguer, Canonoy, Cloribel, Crespillo, Conejero, Dunganang, Galang, Gumangan, José de Guzman, Joven, Meléndez, Jesús Pérez, Toribio Pérez, and Velasco, may still hope to be among the celebrants of the Golden Jubilee of the Constitution. Beyond that all of us, its framers, shall be no more, but the Constitution shall, from one centennial to another, live through the ages, as long as the Filipino nation shall live. In

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this quarter of a century of the life of the Constitution we went through a world war, the cruelest that has ever scourged mankind since Cain dipped his hands in Abel's blood, and three years of a most vicious enemy occupation, but the nation and its Constitution have survived, and they shall survive, because Divine Providence, whose aid and guidance we invoked in framing this historical instrument, will not deny our people His sustaining care.

Our hope not only for national survival but for the realization of a great destiny for our people is rooted in the firm conviction that the free and ordered life of our nation depends upon the preservation of those ideals and injunctions proclaimed in the preamble and the declaration of principles of the Constitution: conserve and develop the national patrimony, promote the general welfare and insure the well-being and economic security of all the people, renounce war as an instrument of national policy, but making the defense of the state against aggression the prime duty of all citizens, and secure to this generation and the succeeding ones the blessings of independence under a regime of justice, liberty and democracy, forever united in a common destiny, under one flag and one God.

And yet our Constitution, or any constitution for that matter, does not and cannot work miracles. Its lofty declaration of aims and principles, its wise commands and injunctions, are not the "open sesame" to all the promised treasures of a republican regime nor a magic formula which can by itself restore youth and vigor to a decrepit polity. It is an instrument, noble, it is true, in its origin and purpose, but a very human thing too, and it can only attain dynamic validity by popular consciousness faith and militancy.

In an American magazine (!) I read many years ago that the original documents containing the Declaration of Independence and the Constitution of the United States were transferred from the Library of the United States Congress to the National Archives Building. The editor of the magazine, after reporting that a military escort and military band had attended them, observed: "How uncomplicated it looked, this physical act of guarding our greatest treasures! And how serene" — he continued — "life would be if the essence of the documents could be guarded so easily, so precisely, and with such gay props as bagpipes and such exact ones as machine guns? Ah, liberty" — the magazine editor concluded — "you look so simple crossing town!"

We are perhaps in a clearer position. The war destroyed the original of the Constitution, and we are free from any confusion between the historic document itself as a treasured possession and the infinitely more precious spirit which it once embodied. It is only the spirit of the great charter over which we must stand guard to preserve its purity and integrity.

Yet we may regard that spirit to be too simple a thing, just a matter of bureaucratic routine, adorned with good intentions and vehement protestations of loyalty to the ideals of freedom. We may grow to believe that the Constitution will work on us like grace from heaven, or like a guardian angel, benevolent and detached, leading us away from temptations of personal vainglory and unbridled love of power and riches, and delivering us from all the evils of misgovernment.

And yet such is not the case, for, when the people no longer agree on the necessity of living under the Constitution both in good and in bad times, when they are ready to discard it for immediate material rewards or to close their eyes to its violation for temporary advantages, the Constitution cannot work.

These are not idle speculations. Our faith in the Constitu-

(1) *The New Yorker*, Dec. 27, 1952.

tion has been repeatedly tested by numerous events during the twenty-five years of its life and often found wanting.

Let us ask ourselves certain questions and answer them honestly in the sanctuary of our conscience.

Are we ready to defend the freedom of speech of those with whom we disagree, of those whose concepts of society and political authority we violently detest? Are we ready and willing to test the validity of our beliefs in the open market of ideas? Are we disposed and willing to maintain the purity of suffrage even at the price of an adverse popular verdict? Shall we keep faith with the Constitution even though it may mean the sacrifice of our political fortunes or economic security?

Throughout the history of democracy men have faced these questions and have seldom given clear and definite answers. In the late 1930's the German people, in their millions, haunted by fear of Communism, groaning under the weight of the Treaty of Versailles, desperately eager for security, infinitely weary of despotism and unemployment, cast aside the Weimar Constitution and gave absolute power to a mad dictator, only to suffer the calamitous consequences of such an injudicious choice. Can we, who believe in democracy and in the advantages of our Constitution over any other form of government, take for granted that our people, if put to the same test, shall always believe what we ourselves now believe, or that we ourselves shall always be true to our present convictions?

In our country, democracy is still an educational process. We must train ourselves in its principles and practices; we must help train all the people by precept and example; we must risk unpopularity and misunderstanding to show the people the distant goals, the hidden dangers, the necessity of temporary sacrifices if our democratic system is to survive. And this obligation rests more particularly on those of us who had a hand in the framing of the Constitution or who are vested with the powers of government it has defined and provided.

I see around me tonight old and beloved colleagues of the Constitutional Convention of 1934. I take it that not only they but all the Filipinos in this distinguished audience are committed, by their very presence here, to the defense of the Constitution. I should like to see all of us unite in the common effort of making our people deeply conscious that the Constitution must be obeyed and enforced upon both rulers and governed, and that its ultimate and permanent advantages will far outweigh any temporary discomforts and privations we may suffer in obeying and enforcing it. Only thus can we make certain that the Constitution shall long endure, and with it the system of government and way of life which it was its purpose to establish, guarantee and preserve.

The plebiscite of 1935 that stamped its approval on the great instrument which the Constitutional Convention adopted as the supreme law of the land, did not adjudicate the question for all time. It was not a final judgment. In a democracy such as ours there is a permanent plebiscite in which we cast our votes for or against the Constitution according as we act or fail to act.

For, let us not forget, the ideals of democracy, the spirit of the Constitution, not only may be uprooted or felled by direct assault, but they can also wither through disuse or abandonment. Inasmuch as in the course of our national existence we are bound to face, often than not, the temptations of expediency and suffer frustration and the fears that ripen into despair, the faith of our people in the Constitution must be constantly kept militant, vigorous and steadfast.

I do not mean to underestimate the wisdom and maturity of our people when I say that the gospel of democracy must be constantly preached to them. When even lawyers cannot agree on what the Constitution says, it is folly to expect the lay mind to perceive fully the implications and effects of any encroachment upon its dominions. When ancient and cultured peoples have despaired of the efficacy of democratic processes in times of upheaval; we can hardly expect our people to maintain an unwavering faith in the Constitution under adverse circumstances, unless, in this formative period of our Republic, they are thoroughly acquainted

with its principles and constantly disciplined in habitual loyalty to them.

Their doubts and difficulties must, therefore, be squarely met and resolved as soon and as often as they arise, and the dangers of hasty and opportunistic decisions fearlessly and promptly exposed. Those who can now look beyond present fears and desires must share their forebodings with the people, not in a spirit of vain-glory, or presumptuousness, or of defeatism, but simply in the consciousness of a common fate.

For all of us, regardless of party, regardless of ideology or condition, must suffer equally from the debasement of the Constitution and the resulting impairment of democracy. Isolated infractions, if left uncorrected, may in time become a chronic condition. If the Constitution is allowed to be violated in one provision, it will be easily violated in another provision. If the Constitution is suspended as to one group of citizens, it can be suspended as to another group of citizens. If one department of the government can invade and usurp the powers of another, so can it invade and usurp the totality of power.

And if, as a result, the Constitution falls, all of us shall fall with it, the learned and the untutored, the foresighted and the improvident, the courageous and the hesitant, the wealthy and the poor, the lovers of liberty and its enemies and detractors.

None of us can be sure that he will have no need of the Constitution; it behooves us all, therefore, to protect and preserve it for an evil day. The very persons who now defy the Constitution or allow it to be subverted or undermined without protest, may themselves cry out for its protection tomorrow, and bewail the loss of the guarantees that they themselves destroyed or denied to their enemies. Then indeed may they weep like Babbalanja, the last Moorish king of Granada, who, pausing in his flight at a bridge for one last look at his beloved city, wept for his lost dominions, only to be bitterly reproached by his mother in these unforgettable words: "Weep like a woman over the kingdom you could not defend like a man."

It is true that upon our judges rests the responsibility of interpreting and applying the Constitution, finding its true spirit in and between the faltering language of its human authors.

But the Constitution is, after all, a political law and democracy a political system, and it is inevitable that both the Constitution and democracy should be the special concern of the two political departments of the government. They it is that are called upon to lead in the preservation of the system of government we have rightly chosen, by showing in words and deeds that it can succeed, and succeed more fully than any other system, in any conceivable situation for any legitimate objective.

The Congress has convened in regular session a few days ago in the usual atmosphere of political intrigues, selfishness, and lust for power. Before the 100-day period ends we shall, I am sure, witness bitter and protracted political battles between Congress and the President, between the two houses of Congress and between the members of each House not only among those professing diverse party loyalties but even among those under the same political banner.

I am not one to decry such conflicts when they arise from honest differences of opinion and for altruistic motives. It is good within limits, that we should disagree. There are less chances that the people will be robbed and swindled of their rights when their agents and trustees are mutually jealous and vigilant. Such conflicts and differences are part of a democratic system; only tyranny can impose an artificial unanimity of thought and action, the unanimity in a graveyard. Politics, by its very nature, is conflict, and conflict for power is the most unrelenting of all conflicts.

When the balance of power, which is the soul of democracy, is destroyed, the outward forms of democracy become meaningless. When President and Congress, joining the power of appointment with the power of confirmation, the power of legislation with the power of enforcement, the power to declare a policy with the power to carry it out, the power to raise money with the power to disburse it, conspire in the interest of total power by one man or

DISCREPANCY BETWEEN FIGURES AND WORDS IN ELECTION RETURNS

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An interesting question of first impression was recently raised before the Supreme Court in the election case "Manuel Abad Santos, petitioner, vs. Judge Arsenio Santos, of the Court of First Instance of Pampanga, and Rafael S. del Rosario, respondents". G.R. No. L-16376. The question was: when the number of votes received by a candidate written in figures is different from that written in words, may the interested party ask for judicial recounting of votes under Section 163 in relation with Section 168 of the Revised Election Code?

The facts of the case are briefly summarized as follows: In the election held last November 10, 1969, for the office of Municipal Mayor of Angeles, Pampanga, upon completion of the canvass made by the Municipal Board of Canvassers of said municipality, Manuel Abad Santos obtained 6,518 votes while his rival candidate Rafael S. del Rosario obtained 6,517 votes or a plurality of only vote in favor of Abad Santos. Immediately, del Rosario filed with the Court of First Instance of Pampanga a petition for a judicial recounting of the votes cast in Precinct Nos. 4 and 4A for the office of Municipal Mayor of Angeles, Pampanga, alleging that there was a conflict in the election returns between the number of votes written in letters and the number of votes written in figures received by him. In Precinct No. 4, it appears in the four copies of the election returns that del Rosario received "one hundred five" votes written in words and "145" written in figures, while in Precinct No. 4-A, it appears that he received "one hundred and nine" votes written in words and "169" written in figures.

one group, then democracy is in peril of its life.

No matter what the Constitution may say, such a concentration of power can exert well-nigh irresistible pressure on the courts, undermine the rights of the people through repeated encroachments, or wipe them out in one bold sweep against which effective redress shall no longer be found within the framework of the Constitution.

And who shall rise to defend and protect the individual's bill of rights, who shall rise to fight for the supremacy of the Constitution, and how can those who would do so expect the support of the majority of the people when the people, by then, shall have become impassive to the repeated violations and desecrations of the Constitution?

Let us then congratulate ourselves that we still have the inclination and the ability to disagree to expose errors and misdeeds wherever they are found, and to detect and resist any conspiracy to unite and seize political power, and in the end, to call upon the people to restore the balance.

I am reminded of a character in Bernard Shaw's play, *The Devil's Disciple*. A woman reputed to be religious finds her faith shaken when she sees her enemies, whom she considers sinful, succeeding and prospering while she fails, and she upbraids the minister of the gospel with a heart full of regrets for her virtue. "Why should we do our duty and keep God's law" she remonstrates, "if there is to be no difference made between us and those who follow their own likings and dislikes and make a jest of us and of their Maker's word?"

I wonder if there are some of us who, like that embittered old woman, believe that we should keep the Constitution and love democracy only in the expectation of material rewards. Can our faith surmount the trial of suffering and resist the temptations of prompt relief in times of distress or ignore the lure of expediency for the attainment of political ends?

What if we were facing a real national emergency? Could

The lower court granted the petition of del Rosario for a judicial recounting of the votes cast in said two precincts. Abad Santos then filed with the Supreme Court a petition for Prohibition with Preliminary Injunction.

The main argument of his lawyer is the following: "The mere discrepancy between the words and the figures in the election return as to the number of votes that a candidate has received is not the discrepancy contemplated in Section 163 in relation to Section 168 of the Revised Election Code. It is the discrepancy in the statements — which gives to a candidate a different number of votes and the difference affects the result of the election. The legislature could not have intended that mere discrepancy between the words and the figures should cause the recounting of the votes to determine the true result of the election, because it could not have ignored the rule of universal application that where the conflict is between words and figures, the words will be given effect. (82 C.J.S. 720).

The general rule of construction is conceded that, where there is a conflict between words and figures, the former prevails; and this concession is in accord with the text-books and decision. *Warder v. Millard*, 8 Lea. 581-583; *Payne v. Clark*, 19 Mo. 152.

Where a difference appears between the words and figures, evidence cannot be received to explain it; but the words in the body of the paper must control; and if there is
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we be sure that the majority of our people would not follow the sad examples of desperate and angry nations in the annals of the democratic experiment, and that they will not discard the Constitution to gain a delusive salvation?

Perhaps we believe in the Constitution only because it is the thing to do, because we have learned its provisions by rote in school like arithmetic and spelling and the Lord's Prayer, and not because we sincerely and consciously believe it to be the best and surest guaranty of our chosen way of life.

The Constitution, through which all good things in our democracy have come into being, and without which they could not have come to be, is the light of our nation, but this light cannot illumine those who neither understand it nor love it, because men of little faith, Pharisees and money-changers, generations of vipers, in the angry words of the Lord, have hidden it under the bushel of their hypocrisy and greed.

Let us then bear witness to the Constitution, so that, in the language of the gospels, all the people may learn to believe. If our nation is to survive and attain greatness in freedom the Constitution must live in our actions, both as individuals and as a people, in the enlightened conviction and steadfast belief that only in the spirit of the Constitution, infused in us, shall democracy abide with us and our nation forever enjoy the blessings of independence under a regime of justice and liberty, and fulfill its destiny within the Lord's Kingdom.

Neither in the toils of the day nor in the vigils of the night can the sentinels of the Constitution relax their vigilance. Let us all be wary and stand by our arms, lest, by culpable tolerance or by criminal negligence, our country should in some forbidding future become a desolate Carthage wherein only the naked ruins of our republic shall remain, fallen monuments of the past in whose debris our descendants, by then the forlorn bondsmen of some corrupt despot, shall in vain endeavor to decipher the language of the Constitution, inscribed, as in forgotten hieroglyphs, on the sarcophagus of our dead freedoms.