

1. That the Constitution should be amended in order that, as in the United States, Bolivia, Cuba, Liberia and other countries, the Vice-President be made the presiding officer of the Senate.

2. That the Constitution should be amended in order that in case of inability of the President to discharge the powers and duties of his office, the President or the cabinet may direct the Vice-President to take over the presidency until the President can resume his duties.

3. That pending the adoption of these constitutional amendments, a law should be passed which will enable the Vice-President who does not become a member of the cabinet, to have access to all official records, make available to him adequate technical facilities and keep him posted on the doings of the administration in order that he may readily cope with the responsibilities of the presidency in those eventualities envisaged in the Constitution.

I thank you all for your presence and for your patience in listening to my discourse. I greet the living members of the Constitutional Convention and congratulate them not only for a labor well done but for living long enough to see that the charter that they framed, altho now needing urgent revisions as a live organism that must respond to metamorphosing conditions, has passed the test of time in two decades as a truly stable foundation for a great republic that, despite the lingering throes of birth and infancy, rises slowly before our eyes as a gorgeous edifice.

To the members who have passed to the great beyond, I pay fitting homage that they had the good fortune of having taken a distinguished part in laying the cornerstone of our nation and that the mortal part of their eternal life which they spent on earth became worthwhile by the role they played in the epic of nation building.

To the rest of us in this and in future generations, who were not bestowed the privilege of taking part in the writing of the fundamental law, it remains for us to reward the fathers of our republic who gathered in Constitutional Convention in 1934 by consecrating ourselves to the remaining duty of defending and preserving the Constitution as the eternal rock upon which the Philippine Republic shall grow in an expanding status of greatness as an instrument for the enduring welfare and joy of our people in the countless centuries still to come.

## RELIGION AND NATIONALIZATION†

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It is traditional for a commencement speaker to express some words of counsel and guidance to the young graduates who may expect inspiring or encouraging advice in pursuing higher education or in facing the realities of life. I feel, however, that your thorough training in the solid principles of Catholic education within this respected institution of learning would make any attempt on my part to follow the tradition superfluous and unnecessary on this occasion. For you are very fortunate indeed in not only having imbibed knowledge and culture from your academic courses but more so, the moral training and spiritual guidance essential to the discharge of your duties to our nation as good citizens and to our community as deserving mothers who shall rear their children in the love or at least in the holy fear of God. You are fortunate in having been impressed within the walls of this institution with the atmosphere of correct conduct and right living not only in your subordination to the will of the Almighty but also in your social relations with the constituted authorities, and with your fellow citizens.

With your indulgence, I wish to discuss two legislative measures towards nationalization, which in the guise of dynamic Filipinism, may undermine the principles of universal instruction and education and may infringe upon the constitutional right of liberty, with particular reference to the right to education, and the prerogative of our people to choose the candidates to public office considering their religious principles and moral standards. For however desirable may be the purpose to foster the nationalistic spirit which permeates our Constitution, such laudable objective must not be promoted by dangerous, if not prohibited, means, especially in the guise of legislative measures.

Senate Bill No. 38 entitled "An Act To Nationalize Certain Positions in Schools, Colleges and Universities," provides in section 1 thereof that, "Hereafter, no person who is not a natural-born citizen of the Philippines shall be head of any school, college or university, or teacher, instructor

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or professor in any social science subject." The proposed bill seeks to nationalize every head of school and every social science subject by limiting the same to a natural-born citizen of the Philippines. While some quarters may endorse the purpose of this bill as conducive to "more dynamic pro-Filipino policies," and to the revival of "the spirit of pro-Filipinism,"<sup>1</sup> I can discern in said measure many more dangers than what ostensibly appear on the surface thereof. First, it makes an undue preference to a natural-born citizen. Except in specific cases where the Constitution requires as a prerequisite a natural-born citizen, like the high offices of the President and Vice-President,<sup>2</sup> and the elective representatives of the people — the Senators and Congressmen<sup>3</sup> — we must not make undue distinction and create different classes of citizens of this young Republic. The qualification of a natural-born citizen is not even required of Justices of the Supreme Court and of the Court of Appeals, who only need to be five years citizens of the Philippines.<sup>4</sup> What we need is more unity and less distinction, more cohesion and less discrimination. Moreover, knowledge is universal and therefore, learning and culture cannot be shackled by reason of race and much less by the arbitrary distinction between natural-born or other citizens of the Philippines. Verily, the capacity of an individual to head a school, college or university, or the qualification of a teacher, instructor, or professor in any social science subject should not be limited by the barriers of race, birth, or blood. It is true that the State can exercise a certain amount of supervision over our educational institutions, but such authority cannot go beyond the bounds of regulation, and cannot seek to establish complete control, much less extend to prohibition,<sup>5</sup> for the State or any of its agencies, like the Department of Education or the Bureau of Private Schools, may only set up the minimum standards of education and the minimum requirements in the school curriculum to entitle an institution of learning to recognition by the State. It is true that our Constitution provides for a complete and adequate system of public education,<sup>6</sup> but this cannot prevent private schools from undertaking the important task of contributing to the literacy of our electorate and to make of our people an enlightened citizenry. Furthermore, the right, if not the duty, to instruct and educate the children is primarily vested in their parents. It is a declared principle in our Constitution that "the natural right and duty of parents in the rearing of the youth for civic efficiency should receive the aid and support of the government."<sup>7</sup> This constitutional provision is an implied, if not an express, recognition of the principle that the

<sup>1</sup> Explanatory Note, Senate Bill No. 38.

<sup>2</sup> PHIL. CONST. Art. VII §3.

<sup>3</sup> *Id.* Art. VI §7.

<sup>4</sup> *Id.* Art. VIII §6.

<sup>5</sup> See: PACU v. Secretary of Education, 51 O.G. 6230, 6237 (1955).

<sup>6</sup> PHIL. CONST. Art. XIV §5.

<sup>7</sup> *Id.* Art. XI §4.

right of parents over the education of the youth is superior to that of the government. And this principle is based on a more fundamental right that the child is not the mere creature of the State. Indeed, the basis of this principle is parental authority (*patria potestas*) which is so intimately related with Filipino family life. To take away this right or unduly curtail it would undermine the basic foundation of our well-ordered society, the social unit of which is the Filipino family. As a matter of fact, this constitutional provision is reinforced by provisions in the Civil Code to the effect that the father and the mother have the duty to educate and instruct their children, as they have the power to correct and punish them moderately.<sup>8</sup> Consequently, while every child is entitled to receive at least elementary education,<sup>9</sup> the parents have the right to determine the manner and form of the education of their children. The State, therefore, cannot legally compel the parents to enroll their children in any particular school, even if it be a free public school supported by the State, much less can the children be compelled to attend the schools whose head or teachers must be Filipinos or natural-born citizens. Such compulsion by the State or any measure in the form of prohibition must be tainted with unconstitutionality as infringing upon the fundamental tenet that "no person shall be deprived of [his] liberty without due process of the law nor shall any person be denied the equal protection of the law."<sup>10</sup> The constitutional guarantee of liberty "denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized as essential to the orderly pursuit of happiness by free men."<sup>11</sup> Education and the acquisition of knowledge are matters of supreme importance which should be diligently promoted. Education of the young has always been regarded as useful and honorable, essential, indeed, to the public welfare. The right to teach and the right of parents to engage a teacher to so instruct their children are within the liberty guaranteed by the Constitution. Indeed, the State may improve the quality of its citizens physically, mentally and morally but the individual has certain fundamental rights which must be respected. And so, in the case of *Meyer vs. Nebraska*,<sup>12</sup> the statute prohibiting any person to teach in any language other than the English language, and for which petitioner Meyer was prosecuted because he used the German language, was considered a desirable end, but it was held just the same that the objective cannot be coerced by methods which conflict with the Constitution, for the

<sup>8</sup> Art. 357 NEW CIVIL CODE.

<sup>9</sup> Art. 356(2), *id.*

<sup>10</sup> PHIL. CONST. Art. III §1(1).

<sup>11</sup> *Meyer v. Nebraska*, 262 U.S. 390 (1923).

<sup>12</sup> *Ibid.*

means adopted would deprive teachers of the liberty secured to them by the Constitution. A desirable end cannot be promoted by prohibited means.

Likewise, in the case of *Pierce v. Society of Sisters*,<sup>13</sup> the Oregon Compulsory Education Act of 1922 required every parent, guardian or other person having control or custody of a child between eight and sixteen years of age to send him to a public school for the period of time a public school shall be held during the current year. The manifest purpose was to compel general attendance at public schools by normal children, between eight and sixteen, who have not completed the eighth grade. The Federal Court held that the statute infringed the privileges and immunities of citizens and deprived them of liberty without due process of law and the equal protection of the laws. Citing the doctrine of *Meyer vs. Nebraska*,<sup>14</sup> the Oregon Act of 1922 was held to unreasonably interfere with the liberty of parents to direct the upbringing and education of children under their control, and stated that "the fundamental theory of liberty upon which all governments in this union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." In the two cases mentioned, the end in view or the purpose intended was perhaps advisable and desirable: in the case of Meyer, to prevent the use of any other language except the English language in all schools to develop a cohesive and united American people; in the case of Pierce, the intention was to afford to all children of the State public school instruction. But in both cases, the laws were declared unconstitutional, because compulsion was held to be an unreasonable method for realizing a proper end. A desirable end cannot be promoted by prohibited means.

Judged by the legal standards hereinabove discussed, there seems to be no doubt that Senate Bill No. 38 which seeks to limit to natural-born citizens the position of heads of every school and all teachers of any social science subject, is unconstitutional, not only as an unreasonable interference with the primary right of parents to control the education and instruction of their children, but also because it would constitute an undue infringement upon the principle of liberty and equality guaranteed by our Constitution.

The first bill submitted in the Senate (Senate Bill No. 1) entitled "An act penalizing the use of any religion or sect in any form or medium of propaganda for or against any political party or any candidate for any elective position" provides in section 1 thereof that "the use of any religion or sect in any form or medium of propaganda for or against any political party or any candidate for any elective position is hereby prohibited." The reason advanced by the author of this bill is the accepted principle

<sup>13</sup> 268 U.S. 510 (1925).

<sup>14</sup> See note 11 *supra*.

under our constitutional system of the "separation of the Church and the State."<sup>15</sup> More specifically, said bill would prohibit the use of "any propaganda through the press and/or the radio, or through whispering campaigns, posters, leaflets, banners, streamers, stickers and the like, where the religious beliefs or leanings of the candidates are played up," as such political propaganda would purportedly only revive in this country the "pernicious reign of religious intolerance," and would eventually result in "continuous victory of candidates belonging to the religious majority."<sup>16</sup> The bill apparently seeks to divorce religion from politics in obedience to the gospel principle of "Give unto Caesar the things that are Caesar's and to God the things that are God's." But a more mature reflection on this bill would reveal that it is based on the mistaken concept of the accepted principle of separation between Church and State. Separation of Church and State has never been intended to decree a conflict and much less create hostility between the Church and the State, because they are both indispensable institutions, deriving their authority from the Almighty, intended to pursue separate functions towards the betterment, if not the perfection, of man. Besides, the accepted concept of the separation of Church and State has been explained thus:

Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice-versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between Church and State."<sup>17</sup>

The bill would seek to separate, if not divorce, religion from the character of the candidates to elective public offices, would deny the influence of religion in maintaining ethical standards of morality, and would prevent the people from considering their religious beliefs and moral principles. We believe in religious freedom but we cannot deny the beneficent influence of religion in the right conduct of man and especially the officials entrusted with governmental power. In fact, the preamble of the Constitution starts with the words: "The Filipino people imploring the aid of Divine Providence," and generally, we do invoke Divine assistance in every important human undertaking or even at the start of important pub-

<sup>15</sup> Explanatory Note, Senate Bill No. 1.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Everson v. Board of Education*, 330 U.S. 1 (1947).

lic events. Our own Supreme Court has held that the principle of religious freedom is not an inhibition of profound reverence for religion nor a denial of its influence in human affairs.<sup>18</sup> Furthermore, the principle of separation of Church and State directs a prohibition against the State in professing a religion for the nation or in levying public funds for the activities of any particular sect or religion. But the same injunction cannot be imposed on the people themselves nor on the means that may be adopted to encourage and mould a vigilant and sound public opinion, like the press or the radio, or even "whispering campaigns, posters, leaflets, banners, streamers, stickers and the like." There should not be any curtailment of the functions of the electorate exercised outside the governmental structure, for these extra-legal functions may be "as political parties or pressure groups, as medium of public opinion thru the use of the press, the radio, forums or special gatherings for the consideration of political, economic, and social problems; appearances in public hearings, petitions, and the like."<sup>19</sup> Any attempt to prohibit or unduly restrict the use of media of public information as regards the qualifications of candidates during electoral campaigns would be a decided backward step, a retrogression, to our constant march towards enlightened democracy and would foment a system of regimented ideas which can find no sanction in the liberty guaranteed in our democracy. The people have the right to judge their candidates not only on the basis of their intellectual and personal ability, or of their moral traits of honesty, or of their sincere dedication to public service. They have also the perfect right to scrutinize the family background, the educational training, the religious upbringing and moral principles of every applicant to public office. And if the majority of our people believe that a candidate who has been thoroughly trained and adequately prepared for the public office he seeks, can afford greater guaranty for honest, decent and dedicated service, there is absolutely no reason to prohibit the dissemination of any information regarding the religious beliefs or moral principles of any candidate to public office. Indeed, we cannot isolate the person of an individual from the moral traits he possesses, as we cannot hope to isolate the conduct of an individual from the individual himself. Hence, I am of the opinion that Senate Bill No. 1 constitutes not only an unhappy implementation of a mistaken interpretation of the principle of the separation of Church and State; it would also unduly restrain the liberty of individuals and the freedom of religion as guaranteed by the Constitution, aside from being an undue diminution of the factors that can help mould sound public opinion to help our electorate choose freely and wisely the men who should be entrusted with elective public office.

Dear graduates, with the religious training that you have imbibed from your dear Alma Mater, the St. Scholastica's College, I am certain that

<sup>18</sup> *Aglipay v. Ruiz*, 64 Phil. 201 (1937).

<sup>19</sup> 1 WILLOUGHBY, CONSTITUTION OF THE UNITED STATES 283 (1929 Rev. ed.).

you will be of service to God and country. I am equally certain that you will not disappoint your parents who have sacrificed so much to give you the Catholic education that the sisters of this institution have imbued your young minds and delicate hearts during your fruitful and happy years in this college. I voice the hope that every one of you will also exert your best efforts to be a credit, an asset in your respective communities where you will wield tremendous influence as an enlightened Maria Clara. Whether it be in the pursuit of higher education or in facing the problems of life or in whatever field of endeavor you may enter into, particularly in the blessedness of motherhood, you will, I am confident, uphold your duties as patriotic citizens of our beloved country and as deserving children of the eternal kingdom of God.