

[Collection Home](#) > [Item Information](#) > Item View

Search this text

[Options](#)

The development of Philippine politics



THE REVOLUTIONARY GOVERNMENT 125

mittees were selected and the rules of the Spanish Cortes, with slight modifications, were adopted.

Several days afterwards, on Sept. 17th, Pedro Paterno, President of the Congress, made an inspiring address, in which he said:

Filipinos, today begins a new era; we are beholding the political resurrection of our people. Amidst the glooms of yesterday; amidst the graves of our heroes and martyrs; amidst the ruins of the past, there arises and stands the refulgent genius of liberty, embracing all the islands and uniting the Filipinos with bonds of holy brotherhood.

Liberty is the real purpose of our existence on earth, the foundation of life and progress.

Our past, the era of cruelty, of deceit, of slavery, has ended. We shall renew the history of the Philippines...

Filipinos, proceed! Let our steps be unflinching and ever forward; let them be steps of justice, of love, of harmony, and of charity; let us win the sympathy of the whole world with generous and humanitarian deeds; and let us write, in the presence of the Lord, of the Supreme Being, the oath of our independence.

One of the first acts of the Malolos Congress was the ratification on September 29, 1898, of the Declaration of Independence which had been made at Kawit on June 12.

The Malolos Constitution

The primary object of the congress as Mabini had planned it was to act only as an advisory body to the President. Soon, however, it decided to draft a constitution for the Philippines. Mabini maintained that the revolutionary congress was not called for the purpose of drafting a constitution, but to give popular support to Aguinaldo, to advise him, and to help in the prosecution of the war. Mabini contended, moreover, that to draft a constitution was not the proper task at a time which was troubled by war; that they must wait until the people were through with war and were in a sufficiently calm mood to deliberate on their fundamental law. His opponents, on the other hand, claimed that in order to secure the recognition of Philippine independence by other powers they must produce a fairly modern and up-to-date constitution. This element, headed by Calderon, was triumphant, and finally decided to

145 / 524

PAGE INDEX

Actions

[Collection Home](#) > [Item Information](#) > Item View

Search this text

[Options](#)

The development of Philippine politics

THE REVOLUTIONARY GOVERNMENT 127

the Universe in order to attain these ends, have voted upon, decreed and sanctioned the following Political constitution."

The project was discussed article by article for over a month—from October 25th to November 29th, 1898. Besides its author, other members who took part in the debate were Ambrosio Rianzares Bautista, Joaquin Gonzales, Tomas G. del Rosario, Arcadio del Rosario, Ignacio Villamor, Alberto Barretto, Aguedo Velarde and Pablo Tecson.

The Calderon project was approved by the Congress with some changes and has since been known as the Malolos Constitution. It created the Filipino State called the Philippine Republic, sovereignty residing exclusively in the people. It established a government which was popular, representative, and responsible, with three distinct powers, the legislative, executive, and judicial. The national and individual rights of Filipinos and aliens were specified.

The legislative power was exercised by the Assembly of Representatives, whose members were to be elected according to law. When the Assembly was not in session, there was to be a Permanent Commission. The executive power was vested in the President of the Republic, through the Secretaries of the Government. The Cabinet was responsible to the Assembly. The President was elected by the Assembly of Representatives and special Representatives convened as a Constituent Assembly. The Judicial Power was vested in the Supreme Court of Justice and in the courts organized by the laws. The Chief Justice of the Supreme Court was chosen by the National Assembly with the concurrence of the President of the Republic and the Secretaries of the Government.

Legislative Omnipotence

Rather unusual were the provisions for the omnipotence of the legislature, the unicameral system, and the permanent commission. Calderon fought for legislative omnipotence because he thought that it was the only way to check the possible abuses of the executive power and of the army. He said:

[Collection Home](#) > [Item Information](#) >
Item View

Search this text

[Options](#)

The development of Philippine politics

 Guide

 Image

 Text




126 THE DEVELOPMENT OF PHILIPPINE POLITICS

frame a constitution. Even after this was determined upon, Mabini still insisted that during war time the President of the Republic must be given great power; accordingly he urged the adoption of a constitutional program of his own. Again he was defeated, for the others decided to draft their constitution.

A committee was appointed for this work. Among its members was Felipe A. Calderon, who became the author of the Malolos constitution. There were two plans presented, the so-called Paterno plan, which was a restatement of his peace proposal for an autonomous government, and the Calderon plan. From the standpoint of political culture, Calderon was the best prepared to draft the constitution, for he had made a comprehensive study of the constitutions of other countries.

Local conditions and the various constitutional projects, such as the constitution of Biak-na-bato, Mabini's ideas as enunciated in his constitutional programs, as well as Paterno's plan, had undoubtedly some effect upon the final drafting of the constitution. The committee which prepared it was frank, however, to admit that the constitutions of European countries such as France and Belgium had been closely studied. The committee reported that "the work of which the commission has the honor to present the results for the consideration of Congress has been largely a matter of selection; in executing it not only has the French Constitution been used, but also those of Belgium, Mexico, Brazil, Nicaragua, Costa Rica and Guatemala, because we have considered that those nations most resemble the Filipino people."⁽¹⁾ The American Constitution did not have direct influence except in so far as the ideas contained in it are found in South American Constitutions. The preamble, however, shows marked similarity to that of the American Federal Constitution. It reads: "We, the Representatives of the Filipino people, legally assembled to establish justice, provide for the common defense, promote the general welfare and secure the blessings of liberty, imploring the aid of the Supreme Legislator of

(1) Calderon, *Mis Memorias Sobre la Revolucion Filipina*, Appendix pp. 16-18.



146 / 524



[Collection Home](#) > [Item Information](#) >
Item View

Search this text

Search

[Options](#)

The development of Philippine politics

☰ Guide

🖼 Image

☰ Text



128 THE DEVELOPMENT OF PHILIPPINE POLITICS

In fact the legislative power, although I proclaimed at the beginning the separation of the three powers, had been vested with such ample powers in the proposed constitution that it controlled the executive and judicial powers in all their acts, and in order to make this control a constant one, the same as in the constitution of Costa Rica, I had established a so-called permanent committee, that is, a committee composed of members of the congress, which, during the recess of the congress, assumed all the powers of the same, with full authority to adopt emergency measures. In one word, it may be affirmed that the congress of the republic was the omnipotent power of the entire nation.

In proceeding in this manner, I remembered that the insurrection had been organized by the most ignorant element of the people and that for a long time we were going to have a very great predominance of the military element, whose ignorance was indisputable, to such an extent that General Luna himself, as soon as he took charge of the direction of the war, organized academies in order that the officers might acquire some knowledge of military tactics of a scientific nature. The fact that the insurgent army was completely ignorant is not at all strange, because any person who knows how the insurrection was organized is well aware of the fact that Andres Bonifacio recruited his men from among the most ignorant classes. Being fully convinced, therefore, that in case of obtaining our independence, we were for a long time going to have a really oligarchic republic in which the military element, which was ignorant in almost its entirety, would predominate, I preferred to see that oligarchy neutralized by the oligarchy of intelligence, seeing that the congress would be composed of the most intelligent elements of the nation. This is the principal reason why I vested the congress with such ample powers, not only within the legislative sphere, but also in its control of the executive and judicial branches. In one word, where oligarchies were concerned, I preferred the oligarchy of the intelligence of many to an ignorant oligarchy.⁽¹⁾

In thus giving extreme importance to the legislature, the Philippines passed through the same period of great reliance upon legislative bodies which other peoples just emerging from executive tyranny have experienced. The objection of Mabini to Calderon's project was not based on his

(1) *Memoirs of Felipe G. Calderon*, *The Philippine Review*, June-July, 1919. The Memoirs were also printed in book form.



148 / 524



[Collection Home](#) > [Item Information](#) >
Item View

Search this text

Search

[Options](#)

The development of Philippine politics

☰ Guide

🖼 Image

☰ Text

☰

☰

THE REVOLUTIONARY GOVERNMENT

129

desire to have a strong executive permanently. He wanted a strong executive for war purposes only. In times of peace his theory demanded the predominance of the legislature also, although he probably would not have made it as pronounced as Calderon did. His view of the relation of the three powers is found in his article on what he called Political Trinity, in which he said:

Society is a group of men pledged to render mutual help to one another for the attainment of that common welfare, which they cannot by themselves and without the help of others secure. When a group of men are called upon to carry on an enterprise, for instance, to build a house, there must be some one among them to lead the others in the proper distribution of the work; otherwise they will not understand each other and nothing will be accomplished. A corpse still retains all the organs of the body, but it cannot move, cannot function, because it lacks a soul which nerves its component parts to a simultaneous and uniform action. Its hands do not move, for the body to which they are attached cannot move. The same thing happens with a society; if it is nothing but a gathering of men, without aims or guidance, order or harmony, it is a veritable cadaver, for what one man may do others will undo. They will soon fight each other and dissolve, just as nothing awaits the cadaver but its decomposition.

Society, then, should have a soul,—sovereignty. This sovereignty should have a brain to guide and direct it,—the legislative power; a will that works and makes it work,—the executive; a conscience to try and punish the bad,—the judicial power. These powers should be independent in the sense that one should not encroach upon the attributes of the other. But the last two should be made subservient to the first, just as will and conscience are subordinated to reason. The executive and the judiciary cannot separate themselves from the laws dictated by the legislature, any more than a citizen can violate them. The power of legislation is the highest manifestation of sovereignty, just as reason is the highest attribute of our soul.

But this subordination of the executive and the judiciary to the legislature is one of order and harmony, not of hierarchy. As out of a perfect harmony of the three attributes of our soul is born the attribute of virtue, so out of the harmony of the three governmental powers springs forth a good government.(1)

(1) Article of Sept. 20, 1899, published in *El Ideario Político de Mabini*, pp. 12, 13.



149 / 524



[Collection Home](#) > [Item Information](#) >
Item View

Search this text

Search

[Options](#)

The development of Philippine politics

☰ Guide

🖼 Image

☰ Text

🔍

☰

130 THE DEVELOPMENT OF PHILIPPINE POLITICS

Calderon assigned three reasons for the unicameral system. In the first place, there were no conflicting interests in the Philippines to justify the existence of two chambers; in the second place, in a formative country like the Philippines, two chambers might delay an efficient administration; and in the third place, there might not be at first enough good men to fill all the places of a two-chambered legislature.⁽¹⁾

The provision for a permanent commission was intended to furnish the legislature with a further check upon the executive when the former was not in session. Provisions for permanent legislative commissions are found in the constitutions of some South American countries, from which Calderon must have borrowed the idea.

The permanent commission of the National Assembly in April, 1899 was composed of the following: Sr. Pedro A. Paterno, Sr. Felix Ferrer, Sr. Juan Nopomuceno, Sr. Arsenio Cruz Herrera, Sr. Joaquin Gonzales, Sr. Hugo Ilagan, and Sr. Alberto Barretto.

Another subject on which the members of congress were divided in their opinions was the subject of religion. Calderon, who was a good Catholic, for very important reasons provided in his proposed constitution that the Catholic religion be recognized as the state religion, altho other people would be allowed to worship God in their own way. That was put to a vote, and the result was a tie. Upon another poll his proposition was defeated by one vote, that of Pablo Tecson, the Vice-President. Calderon in his *Memoirs* explains his reasons for advocating a state religion as follows:

I took into account that all the Filipinos, even those who boasted they were Masons and sectarians, were Catholics, and that it was extremely dangerous at that time to do sudden violence to the consciences and establish liberty of worship, with its sequel the separation of Church and State, not only because it outraged the consciences of nearly all, but also, because it created great dissension among the Filipinos, who were divided enough as it was in those moments, while what we really needed the most was to find

(1) *Memoirs of Felipe Calderon, The Philippine Review, June-July, 1919.*



150 / 524



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