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Wednesday, August 20, 1986

OPENING OF SESSION

At 9:46 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Edmundo G. Garcia.

Everybody remained standing for the Prayer.

PRAYER

MR. GARCIA: The Reading is taken from the Gospel of St. Luke, Chapter 1, verses 46-55, The Magnificat, Mary's Song of Praise:

My heart praises the Lord; my soul is glad because of God my Saviour, for He has remembered me, His lowly servant! From now on all people will call me happy, because of the great things the Mighty God has done for me.

His name is holy; from one generation to another. He shows mercy to those who honor Him. He has stretched out His mighty arm and scattered the proud with all their plans. He has brought down mighty kings from their thrones, and lifted up the lowly. He has filled the hungry with good things, and sent the rich away with empty hands. He has kept the promise He made to our ancestor; and has come to the help of His servant Israel. He has remembered to show mercy to Abraham and to all his descendants forever!

Dear God, Father of our people, be with us till the end as we finish our task of writing a charter together with our people for the future.

We continue this effort in FAITH, knowing fully well that no matter how much we try, what we can produce is but an imperfect and unfinished document — imperfect, because we are men and women with feet of clay holding imperfect tools in uncertain times; unfinished, for no matter what we do, only the people can give life and meaning to the lines we write.

We continue this effort in HOPE, knowing that if we fail to say or fail to do what we must, someday our people will say or do what must be said or done in our barrios and cities, in our towns and countryside or in our

autonomous regions.

Dear God, You, Who can read between the lines, and even beyond them, we hope that You will perfect our efforts by Your guidance and loving kindness, in session or out of session, in season or out of season, for the good of our people and this country which You love so dearly.

Finally, we continue this effort in LOVE, knowing that when all is said and done, the one important thing is how we have loved our neighbor in word and deed, especially those who have less in life, those closest to Your heart: the lowly ones, the voiceless and the poor.

Dear God, You, Who love our people and our country more than anyone of us here and more than we can imagine, stand by our side. We believe in the constancy of Your love, because though we may seem to be a poor and peripheral nation is no reason for us not to be proud and free, to be strong and self-reliant, to be independent and sovereign.

You Who have crushed the proud from their thrones, lift up Your lowly ones and this our only country, brave isles in difficult seas but beloved in Your eyes.

Dear God, we trust that You will be with us, now and always. Amen.

ROLL CALL

THE PRESIDENT: The Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present

Alonto Present Nieva Present

Aquino Present[*] Nollado Present

Azcuna Present Ople Present[*]

Bacani Present Padilla Present

Bengzon Present Quesada Present[*]

Bennagen Present Rama Present

Bernas Present[*] Regalado Present

Rosario Braid Present Reyes de los Present[*]

Brocka Absent Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion Present Sarmiento Present[*]

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present Tadeo Present[*]

Gascon Present Tan Present

Guingona Present[*] Tingson Present

Jamir Present Treñas Absent

Laurel Present Uka Present

Lerum Present Villacorta Present[*]

Maambong Present[*] Villegas Present

Monsod Present

The President is present.

The roll call shows 35 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of a quorum.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDENT: Is there any objection that we dispense with the reading of the Journal of the previous session? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON: Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT: Is there any objection that we approve the Journal of yesterday's session? (Silence) The Chair hears none; the motion is approved.

MR. CALDERON: Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT: Is there any objection that we proceed to the Reference of Business? (Silence) The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from Mr. Santiago Morales of the Philippine Chamber of Communications, Inc., Room 504 SMS Bldg., 120 Juan Luna, Binondo, Manila requesting inclusion in the Constitution of the following proposed provision: "In the interest of national security and for the common good, no foreigner shall be allowed to sit in the governing body of public utilities nor shall any foreigner or foreign corporation, association or entity be allowed to be involved, through a management contract or other means, in the management, administration, operation, and control of public utilities."

(Communication No. 582 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Ms. Marie Francesca Yuvienco of St. Paul College, Quezon City, urging the retention of the United States military facilities in Clark Air Base and Subic Naval Base.

(Communication No. 583 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory and Declaration of Principles.

Letter from Rev. Henry Habon of Tarlac, Tarlac, urging the Constitutional Commission to incorporate in the Constitution the provision on the inviolability of the separation of the Church and the State, as embodied in the 1973 Constitution.

(Communication No. 584 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Sangguniang Bayan of Rosario, Agusan del Sur, signed by the Municipal Mayor-Designate Ruperto V. Bermudez, seeking the disbandment and/or abolition of the Philippine Constabulary (PC) and the Integrated Civilian Home Defense Forces (CHDF).

(Communication No. 585 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from the Concerned Women of the Philippines, signed by fifteen members, reiterating its stand on "the sacredness of the family as a basic unit of society" and "the right to life of the unborn child which begins from the moment of conception."

(Communication No. 586 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory and Declaration of Principles.

Letter from Mr. Jose P. Dimalanta, Jr. of Tabuk, Kalinga-Apayao, requesting reconsideration of the Constitutional Commission's decision to refuse the mechanism of limiting reelections thru a process effectivity barring elective officials from running for the same public office after two or three terms, saying that, at this crucial stage in our history, there is a compelling need to apply the brakes to unlimited reelections, and perforce to unabated abuse of power; otherwise there will be a larger break from the sociopolitical mainstream that will be the breeding ground for future civil strife of the internecine type.

(Communication No. 587 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Ramon Y. Sy, UCPB Building, Makati Avenue, Makati, Metro Manila, submitting his position paper in which he discussed his policy recommendations on the settlement of our foreign debt.

(Communication No. 588 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Ms. Cristina M. Liamzon, National Coordinator, Philippine Partnership for the Development of Human Resources in Rural Areas, submitting a position paper on the proposed amendments to Sections 5, 6 and 7 of the Article on Social Justice, expressing hope that these statements be given sufficient

attention in the deliberations of the sections.

(Communication No. 589 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Vicente D. Millora, transmitting a resolution of the Board of Governors of the Integrated Bar of the Philippines, urging the Constitutional Commission to provide in the Constitution for a time limit of six (6) months from date of sequestration by the Presidential Commission on Good Government within which the corresponding action for forfeiture of ill-gotten wealth should be filed in court.

(Communication No. 590 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Communication from the Convention of Philippine Baptist Churches, Inc., P.O. Box 263, Iloilo City, signed by its General Secretary, Rev. Penuelito A. Sacapaño, registering its opposition to a proposed constitutional provision which will make religious instruction in the public schools compulsory or mandatory.

(Communication No. 591 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Ernesto B. Hidalgo of Room 209 CCH Bldg., Alfaro St., Salcedo Village, Makati, Metro Manila submitting a proposed amendment to Section 9, Article XIV of the 1973 Constitution for inclusion in the new Constitution to wit: "In cases where the exploration, development or exploitation of any of the country's natural resources requires a capital investment of ten million U.S. dollars (US\$10 million) or more, foreign citizens, corporations or associations may be allowed to own at least 60 per centum of the capital; provided, however, that said foreign citizens, corporations or associations must gradually dispose of at least twenty percent of its total equity to Filipino citizens within the period of ten years at the rate of two percent annually commencing from the start of actual commercial production."

(Communication No. 592 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Ms. Perla B. Sanchez of the Institute of Maternal and Child Health (IMCH), 11 Banawe St., Quezon City, endorsing an open letter signed by two hundred eighty-eight signatories with their respective addresses, seeking the deletion of Section 9 of the proposed Article on the Declaration of Principles, which states: "The State shall equally protect the life of the mother and the life of the unborn from the moment of conception."

(Communication No. 593 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory and Declaration of Principles.

Communication from five hundred ninety signatories with their respective addresses seeking the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 594 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory and Declaration of Principles.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: There is a request for a short privilege speech on the occasion of a very special event.

May I ask that Commissioner Alonto be recognized?

THE PRESIDENT: Commissioner Alonto is recognized.

QUESTION OF PRIVILEGE OF COMMISSIONER ALONTO

MR. ALONTO: Madam President, distinguished Members of this august body. I thank God for the privilege that this august body has given me on this most momentous day in our history.

Madam President, tomorrow is the third anniversary of the martyrdom of one of the most distinguished sons of this country, the late former Senator Benigno S. Aquino, whose martyrdom three years back has awakened the whole country to the realization of its actual state of affairs. This anniversary of the death of the late Senator Ninoy Aquino, I believe, was the main reason in proclaiming this Freedom and Peace Week, which was announced the other day by the distinguished President of this august body. It is for this reason, Madam President, that I have requested for the privilege and honor of at least recalling some of the historic commitments of this great Filipino, as our contribution to the celebration of Peace and Freedom Week. I refer, Madam President, to the historic lecture delivered by the honorable Senator Benigno Aquino, Jr. at the King Abdulaziz Science Auditorium on May 12, 1981 in Jeddah, Saudi Arabia.

It was during the days of his self-imposed exile that the former Senator broke the serenity of that exile in a foreign land to go to another foreign land for the purpose of continuing his search for peace and freedom in this country, which at that moment was obliterated by a suppressive and tyrannical dictatorship.

The title of this historic lecture is "The Historical Background of the Moro Problem in Southern Philippines." For purposes of depicting the concern of the late Senator Aquino for peace, freedom and democracy in this country, allow me, Madam President, to quote from this historical pronouncement of the late Senator:

My dear friends, over the last eight years, as a result of the so-called Muslim mini-war in the Philippines, more than a hundred thousand Filipino Muslims have lost their lives; over two hundred fifty thousand have come as refugees in the neighboring Sabah State of Malaysia, and more than one million have been displaced and rendered homeless. On the other side, according to President Marcos himself, about ten to eleven thousand Filipino soldiers have been killed over the last eight years as a result of the battle in the Southern Philippines. These grim statistics have not captured the headlines of the world press and, as a result, world public opinion has not been mobilized enough to clamor for a halt to this senseless carnage. The Philippine government under President Marcos calls the Muslim fighters rebels; he calls them outlaws; he calls them insurrectionists; he calls them secessionists or, far worse, traitors to the Philippines. The Muslims, on the other hand, see themselves as patriots, as holy warriors, defending their homeland and their Islamic faith and sacred birthright of self-determination from infidel attacks. It is most unfortunate that Filipinos are fighting against Filipinos today.

I have come all the way from Boston precisely to urge our brothers, especially those from the Moro National Liberation Front and the Bangsa Moro Liberation Organization, most probably to start their united effort so that as one Muslim nation they will be able to present a more formidable force in any negotiation with the present government. This evening, I would like to announce to you that the Moro National Liberation Front under Chairman Nur Misuari and the Bangsa Moro Liberation Organization under Sultan Haroun Al-Rashid Lucman have finally joined forces and together will continue the struggle for the freedom of our Muslim brothers now in the Southern Philippines. Chairman Misuari, who heads this joint group, together with the leadership of Sultan Lucman, will be rallying most of the Muslims not only here but in our country so that once united, they will be able to present their case better in the halls of the Organization of the Islamic

Conference before the Philippine government, and be able to work towards the resumption of the Tripoli Agreement in international bodies like the United Nations.

However, before I go into this, I would like to give you a brief history of the Muslim struggle. This struggle has continued for almost four centuries and this may be the last chapter of the classic encounter of the crescent and the cross. It is true that this conflict has many ingredients and many causes — ethnic hostilities, economic rivalry, and political antagonism — but all these reasons are radically different from the understanding of each side as to what the conflict is all about. My point is that the Muslims look at this problem from one angle and the non-Muslims from another. They cannot seem to agree on what they are saying and we have this incessant conflict. I will just cite to you an example of what happened last February. According to the best reports, to an island outside of Jolo known as Pata Island, which has about eleven thousand people, the military sent a battalion of soldiers to inventory the firearms of its people. However, the soldiers who came from Luzon, not understanding the customs of our Muslim brothers in the South, occupied the mosque in that island. After they had occupied the mosque, they got some pigs and dogs and started making lechon (grill) inside the mosque. Now, you know that pork is one of those prohibited foods in the Muslim religion, but these soldiers did not notice that they were in a sensitive situation and so started cooking inside the mosque, which naturally enraged the people in the village.

At this juncture, my dear friends, let us look back a little at history. You and I know that the Muslims in our country have predated the Christians in that country. Arab traders, as early as the ninth century, have become dominant in the vigorous Southeast Asian center with the religion of Islam. At the end of the thirteenth century, according to Marco Polo, he found a flourishing Muslim Sultanate in Northern Sumatra.

According to our own Dr. Mauryag Tamano in his book, and I quote: "By 1917, the U.S. government had as one of its goals the complete fusion of a group of Filipino Muslims and a majority segment of the Filipino Christians." In other words, the Spaniards before and the Americans who came later, had one goal — to integrate this community. But this community could not be integrated because the Muslims felt they had their own national identity.

The Americans bringing in their own cultural tradition wanted to enforce a strict separation of the Church and State, but this American tradition was seen by the Muslims as a threat to their own traditions. The very notion of the separation of the Church and the State, in the view of a Muslim, was a Christian idea; for among the Muslims, the Church and the State are indivisible, at most, two aspects of the same reality . . .

Madam President, in order not to tire this august body, I would like to leave out that portion of the lecture which deals with the historical perspective touched upon by the late Senator Aquino. I would like now to read that last portion of this historic document which intends to solve the present situation, the present conflict in the South:

This evening, my friends, I would like to outline to you a solution that I proposed to the leaders of the Muslim communities led by Chairman Nur Misuari and Sultan Haroun Al-Rashid Lucman, and, hopefully, will be able to bring peace to our troubled land.

1. We will note that in 1977, under the aegis of the Organization of the Islamic Conference, an agreement was signed in Tripoli known as the TRIPOLI AGREEMENT. Under this agreement, our Muslim brothers have given up the quest for independence and they will remain in the Republic provided they are given the autonomy in the 13 provinces of Mindanao. To the 13 provinces of Mindanao, we are going to give them autonomy in those regions. They will be able to set up their own security forces and they will be able to govern themselves. This was a very good beginning — and for a while, there was a ceasefire and there was no killing. Unfortunately, when this agreement was implemented, our President did not implement it to the letter and instead of discussing this with the Muslim leaders, broke off, and Mr. Marcos went on to implement it unilaterally. Instead of 13 provinces, Mr. Marcos split these two regions — one is Region IX and the other is Region XII and they removed three provinces. Naturally, our Muslim brothers said that "This is a violation of

the TRIPOLI AGREEMENT. The TRIPOLI AGREEMENT talks of 13 provinces, and now you have reduced this number to 10, and what is worse, you have split us into two."

I, therefore, would like to propose that the Philippine government return to the original Tripoli Agreement. If the Philippine government returns to the Tripoli Agreement, then we will make an appeal to our Muslim brothers to come back to the table so that we can discuss our problem rather than shoot it out. If we do not negotiate, my friends, there will be a return to bloodshed and more people will die. But we have promised our Muslim brothers that if they come back to the negotiating table, if they come back to the Tripoli Agreement, then the entire Christian North will support them in their claim and once more we would like to propose affirmative actions on the regions in Mindanao. . . What do I mean by this? If our regions in Mindanao are underdeveloped and they are entitled to only one school, by our definition of affirmative actions, we will increase your school to four every year so that income (sic) between the two communities will be close at the end of the century.

2. We believe that all Christian troops in Mindanao should be withdrawn from that area. It takes two to fight. If there are no more soldiers, there will be no more fighting and, therefore, we will be able to disconnect (sic) the fighting. All Christian troops will be removed from those Muslim areas and we will let the Muslims police themselves. We will tell them: "We are removing the Christian troops and you set up your own police force; you set up your regional forces; you police yourselves because we do not want anymore conflict between Christian and non-Christian communities."

3. We will propose that the Muslims set up their own courts — their own "shari'ah courts, their own schools, their own madrasahs; if they want to use Arabic to teach their children, they can use Arabic to teach their children. Why should we impose English or Tagalog if they want their own Arabic? And, therefore, we believe that they should also have their own courts and they should also have their own schools. Their local autonomy officials should be Muslims and they should be elected by their own people. The national government will always support them if they are entitled to by way of development. I believe the Muslim community should be allowed to call in their lawyers and set up their own civil code as against our own civil code. If this is achieved, it will go a long way as essential opportunities that will signal the beginning of the Renaissance in the Muslim community in the Philippines which, some five hundred years ago, was the center of Filipino culture, learning and power. With the assistance of the Islamic Conference, funds for development could be secured, ushering in a new prosperity, envisioning a system of official free institute (sic) all over the Philippines. We feel that if our brothers unite and hostilities stop, we can set up training camps and educational institutions all over Mindanao so that the products of these institutions can come to the Middle East for better employment and if we appeal to the Organization of the Islamic States, I believe the Filipinos, now numbering a hundred and fifty thousand to two hundred thousand here, will increase to more than half-a-million.

Madam President, this pronouncement of the late Senator Aquino has clearly proven that even in his trying and difficult days, his main concern was the return of freedom, peace, and democracy to the people of the Philippines, irrespective of race or creed.

Madam President, I would like to close this privilege of reading this into our records, with the hope that in consideration of the report of the Committee on Local Governments regarding the autonomous region, the formula that is given by Senator Aquino in his speech shall be taken into consideration.

Thank you and may God give us peace and freedom in this country.

THE PRESIDENT: Thank you.

At this juncture, the Chair acknowledges the presence of students from St. Paul College, St. Scholastica's and Maryknoll. We also have here with us our brothers from Mindanao and from the Cordillera region, as well as students from the PSBA and the Philippine Women's University. At the South Wing Lobby is a big group of

students from La Consolacion Grade School who are all interested in what is going on in these halls of the Constitutional Commission.

The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 470

(Article on Local Governments)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: Madam President, I move that we continue the consideration of the Article on Local Governments, Proposed Resolution No. 470.

THE PRESIDENT: Is there any objection that we proceed with the continuation of the consideration of the Article on Local Governments? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: Madam President, may I request all those who have amendments to confer with the committee for more speedy proceedings.

MR. NOLLEDO: Madam President, we are now considering amendments to Section 4 of the report on autonomous regions.

MR. RAMA: May I, therefore, request that Commissioners Foz, Rodrigo, Bacani, Uka, Quesada, Davide, Rosario Braid, and Bengzon approach the committee to present their amendments. May I request that as soon as the committee chairman announces the amendments accepted by the committee, that he also announce the authors of said amendments.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:24 a.m.

RESUMPTION OF SESSION

At 10:55 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Bacani be recognized.

BISHOP BACANI: Madam President, I have proposed an amendment which will be incorporated into the amendment of Commissioner Regalado, but I ask that I be given the privilege of asking a few questions to clarify the meaning of the amendment.

THE PRESIDENT: Is it on Section 4?

BISHOP BACANI: Yes, Madam President. My amendment consists of adding the words "CONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION" in the first paragraph of Section 4. As it stands now Section

4(10) will have to read this way in conjunction with the first paragraph of Section 4:

Within its territorial jurisdiction, an autonomous region shall have legislative authority over the following: . . .

10) Preservation and development of customs and traditions and culture indigenous to the autonomous region.

And these are the questions I would like to ask in order to clarify the meaning of that amendment which, I believe, the committee is willing to accept. The autonomous regions have indigenous culture, and do I understand that religion is among the prominent components of that culture? If so, the preservation and development of customs, traditions and culture would include the preservation and development of religion.

MR. NOLLEDO: Yes.

BISHOP BACANI: Thank you.

When we say that the autonomous regions shall have legislative authority over the following, would the committee not explicitly want to exclude the provision that they shall have legislative authority over religion? Or would the committee want that also to be included within the purview of what is being proposed in Section 4 (10)?

MR. NOLLEDO: Madam President, before I answer that question, may I inform the Commissioner that we have acceded to the Davide amendment with respect to Section 4(10) which is now Section 4(11) of the report. Instead of using too many words, we agreed that we should use "Preservation and development of THE CULTURAL HERITAGE OF THE REGION." I agree with Commissioner Bacani that "CULTURAL HERITAGE" here may cover religious practices. And in the exercise of legislative authority over the cultural heritage of the region, the Constitution must be respected.

BISHOP BACANI: That is why I am proposing that amendment, Madam President.

MR. NOLLEDO: That is precisely the reason why we are accepting the amendment, Madam President.

BISHOP BACANI: May I ask a further question? In precise reference to the Muslim autonomous regions there allegedly exist Muslim village schools where the Muslim religion is being taught at the expense of the State. I suppose that is not construed as a violation of the Constitution.

MR. NOLLEDO: May we ask Commissioner Alonto to answer that question.

THE PRESIDENT: Commissioner Alonto is recognized.

MR. ALONTO: Madam President, there seems to be some misunderstanding. The teaching of religion in the different schools in Mindanao now, whether private or public, is not supported by the State. The State does not spend anything. Those are all voluntary on the part of the community. And similarly in some public schools here in Luzon and in the Visayas, there are some good people who volunteer to teach religion in the public schools, but this is not supported by the State.

BISHOP BACANI: I asked about this because I have two sources of information which actually tell me that the State supports Muslim village schools. I do not want to contradict that, if that is what is happening there. But would the committee be excluding government support for the teaching of the Muslim religion in the Muslim village schools?

MR. NOLLEDO: Personally, in answer to the Commissioner's question, the provisions of the Constitution on the non-use of government funds to promote religion should prevail all over the country, including the autonomous regions.

MR. ALONTO: Yes, because that is the general provision.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: May I point out that our amendments are on lines 1, 2 and 3 in the original Section 4, and what is being discussed now is already on Section 10.

THE PRESIDENT: That is subsection 10 of Section 4.

MR. BENGZON: Madam President, since amendments of many Commissioners have been accepted by the committee with respect to the amendments on lines 1, 2 and 3, may I suggest that we get through first with those amendments before we get into the subsections, so that we will finish off the amendments that have been accepted?

THE PRESIDENT: Is Commissioner Bacani agreeable?

BISHOP BACANI: I am agreeable to that, Madam President. We only wish to take note that it was precisely because my amendment has been transferred to lines 1, 2 and 3 that I started raising my questions. The reason for my amendment has reference to Section 4(10) but the amendment has, in fact, been transferred to line 1.

MR. BENGZON: And which has been accepted by the committee, Madam President.

THE PRESIDENT: So, we will call Commissioner Bacani later on, if there is a need.

BISHOP BACANI: Thank you very much, Madam President.

MR. BENGZON: May I request the chairman of the committee to read the amendments on lines 1, 2 and 3, as proposed by the many other Commissioners and accepted by them.

MR. NOLLEDO: Before I proceed to the other provisions, I would like to request the Chair to ask the body if they have any objection to the amendments now embodied on lines 1, 2 and 3, because the committee has accepted all these amendments.

THE PRESIDENT: Please proceed.

MR. NOLLEDO: So, the Members of the Commission may please refer to the original. They can readily see, as I read these amendments, the changes effected after the amendments. Section 4, lines 1, 2 and 3 should now read as follows: "Within its territorial jurisdiction, AND WITHIN THE FRAMEWORK OF THIS CONSTITUTION, NATIONAL POLICIES, LAW AND DEVELOPMENT, an autonomous region shall have legislative authority, AS PROVIDED IN ITS ORGANIC ACT, over the following:"

Before I proceed, Madam President, I would like to state that the first part beginning with the words "AND WITHIN THE FRAMEWORK . . ." is authored by Commissioners Bacani, Bengzon, Monsod, Regalado and Foz, while the words "AS PROVIDED IN ITS ORGANIC ACT," were authored by Commissioner Rodrigo.

The committee has accepted all these amendments, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like some clarification.

THE PRESIDENT: Please proceed.

MR. DAVIDE: As worded, there is a comma after "CONSTITUTION," another after "NATIONAL POLICIES," and another after "LAW," and then "DEVELOPMENT." I would like to find out if "LAW" and "DEVELOPMENT" are qualified by "NATIONAL."

MR. NOLLEDO: That is correct.

MR. DAVIDE: If that is so, I propose an amendment. Instead of a comma (,) after "CONSTITUTION," place the word AND to make it very clear that "NATIONAL" refers to "NATIONAL POLICIES," "NATIONAL LAW," and "NATIONAL DEVELOPMENT."

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, Section 4 is a very central section in this provision and I gather that quite a number of amendments have been accepted by the committee. For purposes of more orderly and intelligent discussion of this by the entire Commission, may I request that the Commission be furnished a copy of the amended draft of Section 4, and while we wait for that, we could be discussing other sections. I think this is very central, very crucial, and we would like to be able to analyze every word, every change that has been made.

THE PRESIDENT: What does Chairman Nollado say? Are there changes in Section 4 that will justify an interpellation as stated by Commissioner Bernas?

MR. NOLLEDO: Madam President, while the suggestion is very laudable, the changes are clear and I think the Members of the Commission can easily comprehend them. We will be wasting a lot of time because I alone can read the amendments which I placed here. I had to rewrite them for a considerable length of time before the Secretariat can put them in writing and have them circulated. But if I read the amendments here carefully, I think the Members can already perceive the changes, Madam President. So with due respect to Commissioner Bernas, I have to dissent.

FR. BERNAS: Madam President, may I put that to a vote as a formal motion, because I think many changes have been made and frankly, I am having difficulty following the discussions. As I said, this is a very crucial section, and while we wait for this amended draft, we can go to Section 5, or Section 6, or whatever.

MR. NOLLEDO: Madam President, I would like to compromise. I shall read the amendments now so that the Secretariat can put them in writing instead of me rewriting them. I have read the first three lines. I am willing to read the others so that the Secretariat can put them in writing now and circulate the copies.

FR. BERNAS: That would be perfectly acceptable Madam President provided before we proceed with the discussion, the Secretariat would supply us with whatever they have.

MR. NOLLEDO: The committee does not object to that suggestion, Madam President, but I have to read the amendments so that the Commissioners will have an offhand knowledge of the amendments which the committee has accepted.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Before the chairman reads the amendments, I would like to call the attention of the committee. I have also submitted a proposed amendment to Section 4, which reads: "Within the territorial jurisdiction, an autonomous region shall EXERCISE legislative POWERS WITHIN THE FRAMEWORK OF NATIONAL DEVELOPMENT PLANS, POLICIES AND GOALS OVER THE following REGIONAL

AFFAIRS." With regard to the first line, I do not recall having in the present formulation of the committee the words: "FRAMEWORK OF NATIONAL DEVELOPMENT PLANS, POLICIES AND GOALS," and, therefore, I would like the honorable chairman to please consider such proposed amendment.

Thank you, Madam President.

MR. NOLLEDO: The amendments of the Commissioner were taken into account. I think Commissioner Maambong should be one of the coauthors considering that we used some of his words. I hope Commissioner Maambong will be kind enough to accede to the amendments as accepted by the committee because these amendments from Commissioners Bengzon, Monsod, Foz, Regalado and Bacani are substantially the same as his. So, I will add Commissioner Maambong as one of the authors.

THE PRESIDENT: May we ask Commissioner Nolleto to please proceed to read.

MR. MAAMBONG: We will listen to the reading of the new formulation.

MR. NOLLEDO: Madam President, may I read the provisions as amended.

- 1) "Administrative organization" — there is no amendment.
 - 2) "Regional taxation" — we deleted the clause "as provided for by law" because of the Rodrigo amendment.
 - 3) "Ancestral domain and natural resources" — there is no amendment.
 - 4) "PERSONAL, FAMILY AND PROPERTY RELATIONS" — an amendment introduced by Commissioner Foz. The original No. 4 will be No. 5.
 - 5) "INFRASTRUCTURE DEVELOPMENT INCLUDING urban and rural planning and development" — as amended by Commissioner Maambong. That will be No. 5.
 - 6) "AGRICULTURAL, COMMERCIAL AND INDUSTRIAL PROGRAMS AS WELL AS economic, social and cultural development." Actually, "AGRICULTURAL, COMMERCIAL AND INDUSTRIAL PROGRAMS" may be embodied under "Economic development" but we felt that it was necessary to identify the programs. So, the original No. 6 will be No. 7, as amended by Commissioners Rosario Braid and Regalado.
 - 7) "Establishment, maintenance and administration of schools OFFERING FORMAL AND NONFORMAL EDUCATION INCLUDING ADOPTION OF ADDITIONAL CURRICULA CONSISTENT WITH THE CULTURAL HERITAGE OF THE REGION." These three lines are amendments by Commissioners Rosario Braid and Regalado.
 - 8) "Promotion and regulation of TRADE, INDUSTRY AND tourism within the region" — as amended by Commissioner Uka.
- Let us now proceed to No. 9 which was formerly No. 8.
- 9) "Establishment, operation, maintenance AND ADMINISTRATION of health, welfare and OTHER social services PROGRAMS AND FACILITIES" — as amended by Commissioner Maambong.
 - 10) "Protection of the environment in accordance with standards and regulations of the national government." There is no amendment.
 - 11) "Preservation and development of THE CULTURAL HERITAGE OF THE REGION" — as amended by Commissioners Davide and Maambong. We just used the term "CULTURAL HERITAGE" because we felt that the term covers the customs, traditions and culture indigenous to the autonomous region.

12) "PROMOTION OF ADEQUATE AND APPROPRIATE COMMUNICATION SYSTEMS FOR THE REGION." — This is a new amendment introduced by Commissioner Rosario Braid and accepted by the committee.

13) "Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region." We deleted the word "autonomous," as amended by Commissioner Maambong.

Madam President, that completes Section 4 of the provisions on autonomous regions, as amended by various Commissioners. All amendments were accepted by the committee. I ask the Secretariat to kindly reproduce copies of Section 4, as amended, to be distributed to the Members of the Constitutional Commission.

THE PRESIDENT: The Secretariat is so ordered; and in the meantime, we can now proceed to the next section.

MR. MAAMBONG: Madam President, just a minor clarification on Section 4(2). Did we include "AND OTHER REVENUE-RAISING MEASURES"?

Our proposed amendment is: "Regional taxation AND OTHER REVENUE-RAISING MEASURES as provided for by law."

MR. NOLLEDO: The committee will accept, because the term "revenue measures" may cover voluntary contributions. Will the Secretariat take note of this.

MR. MAAMBONG: Yes.

MR. NOLLEDO: The committee accepts the Maambong amendment.

MR. MAAMBONG: Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. DAVIDE: Madam President, may I propose an amendment to Section 5.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: On Section 5, line 26, I propose to add the letter "S" to the word "executive" to read "executiveS"; to change "each" to THE; and to add the letter "S" to the word "unit" to read "unitS."

On line 27, after "forces," add the phrase "OF THEIR RESPECTIVE UNITS." On line 28, after "defense," add the words "AND SECURITY"; then delete the phrase "against insurgency or invasion."

So, the entire Section 5 will read as follows: "The maintenance of peace and order within the region shall be the responsibility of the local police agencies. The local chief executives of THE constituent UNITS shall exercise general supervision over the local police forces OF THEIR RESPECTIVE UNITS."

MR. NOLLEDO: May we interrupt Commissioner Davide at this moment because there is a Regalado amendment to line 28.

Madam President, we are accepting the Davide amendment up to the word "UNITS" where we just stopped. We are accepting all those amendments because they are just matters of style.

MR. DE CASTRO: That is correct.

MR. NOLLEDO: However, Madam President, we would like to inform Commissioner Davide that the committee has accepted the amendments proposed by Commissioner Regalado where line 28 will read as follows: "The

defense of the region against LAWLESS VIOLENCE, REBELLION or invasion. . ." If Commissioner Davide will accept the amendments of Commissioner Regalado, we will also accept "SECURITY."

MR. DAVIDE: Madam President, I think my proposal will cover everything. It is the entirety of defense and security. "SECURITY" will include insurgency, invasion, sedition, rebellion and so on. So, the sentence will only read: "The defense and SECURITY of the region shall be the responsibility of the National Government."

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Will Commissioner Davide yield to an amendment to his amendment?

THE PRESIDENT: Please proceed.

MR. SARMIENTO: Madam President, my amendment will read: "The defense and SECURITY of the region shall be the JOINT responsibility of the REGIONAL GOVERNMENTS AND NATIONAL GOVERNMENT."

MR. DAVIDE: Madam President, I regret that I cannot accept, because the overall defense and the overall security of the country are the responsibility of the national government. If we make it a joint responsibility, it might create a very dangerous situation. One would pinpoint responsibility to the other and there might be the possibility of a deadlock. The other, the regional unit, may also now demand a broader power over that of our national defense and security forces.

THE PRESIDENT: Will Commissioner Sarmiento insist on his proposed amendment?

MR. SARMIENTO: I withdraw my amendment, Madam President.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: I notice that in several parts of this article, the phrase "chief executives" is used. If one is chief, there cannot be several chief executives. There is only one chief executive in the Philippines, and that is the President. So, I would suggest to the committee to find another expression to describe the officer alluded to.

MR. NOLLEDO: Madam President, this section is in accordance with the resolution of Commissioners de Castro and Natividad because when I called their attention, they said that the word "local" will already qualify the term "chief executive." However, we have no objection if we will use the term "the local executives."

MR. CONCEPCION: It is impossible to have a country with several chief executives. The chief is only one. That is why the President is the chief executive because the others are plain executives. The only chief is the President.

MR. NOLLEDO: The committee agrees. We will delete the word "chief."

MR. CONCEPCION: Thank you.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized?

MR. BENGZON: May I ask Commissioner Davide a question?

THE PRESIDENT: Please proceed.

MR. DAVIDE: I will gladly yield to him, Madam President.

MR. BENGZON: Madam President, I also have an amendment along that line and I was just wondering if we

could fuse our amendments. In a situation where peace and order in the autonomous region breaks down because the local police agencies are either unable to cope with the situation or are corrupt and engaged in banditry against the citizens of that region, what can the national government do?

MR. DAVIDE: The President of the Republic is the Commander-in-Chief of the Armed Forces of the Philippines and can exercise his commander-in-chief powers.

MR. BENGZON: Yes. But are we not going to put something here that would automatically and clearly state that the police agencies somehow are under the supervision of the national government in order to take care of that situation? The way it appears here, the local police agencies seem to be the factotum in their area.

MR. DAVIDE: We have the sentence itself, which is the source of the authority to be exercised by the national government.

MR. DE CASTRO: Madam President, may I answer the question of Commissioner Bengzon?

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Madam President, under the Article on General Provisions, we have provided a national police force, civilian in nature and in character, supervised and controlled by a national police commission. In the event that the local police agencies of autonomous regions shall be unable to cope with their work, the National Police Commission can order some members of the national police force or local police agencies in other areas to proceed to the autonomous region and help them. And there is also nothing which the National Police Commission could not do as a national police force to send reinforcements to the autonomous region. So, it is not possible that the local police agencies of the autonomous region alone shall maintain peace and order in their region. It will be subject to the aid and reinforcements of nearby police agencies or from the National Police Commission which controls the national police agency.

MR. BENGZON: I believe that the Gentleman is answering a situation where external forces are at play and, therefore, the security of this region is endangered. How about a situation where the problem lies within the local police forces in the autonomous region themselves?

MR. DE CASTRO: The administrative supervision of local police agencies, including the dismissal and investigation of the same, shall rest on the National Police Commission. If we say that they are corrupt and are in cahoots with the thieves and the robbers, then, the local executive can immediately report to the National Police Commission which shall take immediate action, either by removing them from that area and replacing them with other police units.

MR. BENGZON: What I would like to be clear about and what I would like the Journal to be clear about is that, in autonomous regions, the local police agencies have the responsibility of maintaining peace and order.

MR. DE CASTRO: That is correct.

MR. BENGZON: Am I correct to say that this is not an absolute power, considering that the region is autonomous, and considering that the local police agencies in an autonomous region are also autonomous? Am I correct in saying, therefore, after the Gentleman's explanation, that when it comes to peace and order, when it comes to the supervision of police forces, the national government, through the National Police Commission, still has authority over the local police forces?

MR. DE CASTRO: Yes, because the recruitment and the training of the local police agencies shall be national in scope. As stated in the Article on General Provisions, the reason is that there is a dire need of professionalizing the police service. Also, there are equipments, such as the laboratory and investigative equipments, cameras,

which local units and even autonomous regions may not be able to establish except at the national level.

MR. BENGZON: What is the meaning, therefore, of the second sentence in Section 5, lines 26 and 27, where it says that "The local chief executive of each constituent unit shall exercise general supervision over the local police forces" if the National Police Commission exercises supervision over the local police forces?

MR. DE CASTRO: The general supervision of the local executives should not be taken away from them because they are the ones who see the work of their police agencies everyday and they are very jealous about this supervision. They do not like to lose supervision over their local police agencies.

MR. BENGZON: In other words, what the Gentleman is saying is that this power of the local executive, in his supervision over the local police forces, is subject to and junior to the power of the National Police Commission. Am I correct?

MR. DE CASTRO: As stated in our formulation in the Article on General Provisions, there shall be a national police force, civilian in nature and in character, controlled and supervised by a National Police Commission. Local executives may exercise supervision over their local police forces in accordance with law. In short, there will be some parameters in the supervisory jurisdiction of local executives and the National Police Commission.

MR. BENGZON: Thank you very much.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Perhaps we could solve the problem now. It is precisely because of the concern of Commissioner Bengzon regarding the relationship between the national government and the local police agencies that we presented before the committee an amendment to the first sentence to clear up all doubts. The amendment we presented is to add to the first sentence, after the word "agencies," the words "WHICH SHALL BE ORGANIZED, MAINTAINED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS." This will tally with the statement of Commissioner de Castro that we have a similar provision in the Article on General Provisions.

The first sentence of Section 5, if acceptable to the committee, would read: "The maintenance of peace and order within the region shall be the responsibility of the local police agencies WHICH SHALL BE ORGANIZED, MAINTAINED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS." I would like to inform the committee that this addition, which we seek to include as an amendment, is lifted from P.D. No. 1618 which organized the present regional autonomous regions to emphasize the relationship between the national government and the local police agencies. I will just call the attention of the committee to perhaps consider the proposed amendment we have on the first line of Section 5.

Thank you, Madam President.

MR. RAMA: Madam President, I ask that Commissioner Laurel be recognized.

MR. LAUREL: Madam President.

THE PRESIDENT: Commissioner Laurel is recognized.

MR. LAUREL: The way the discussion is going on, it would seem that the second line, regarding the local chief executive, has been agreed upon. But I would like to take note of the fact that, as stated by former Chief Justice Concepcion, there is only one chief executive in the Philippines and that is the President. As a matter of fact, we refer to the President not as chief executive but as THE Executive. If there is only one chief executive, there is

only one executive, and that executive is the President.

So, if the body and the committee are willing, I would rather start line 26 with the word "Local." Instead of saying "The local EXECUTIVES," strike out the word "The" because "The executive" should refer only to the President of the Republic.

So, we should start the sentence by striking out the word "The" so that the line would read: "Local EXECUTIVES of the constituent UNITS."

MR. NOLLEDO: The committee gladly accepts the amendment.

MR. LAUREL: Thank you, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT: We will suspend the session for a few minutes to enable the Commissioners to confer with the committee.

The session is suspended.

It was 11:36 a.m.

RESUMPTION OF SESSION

At 11:54 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Precisely, in anticipation of the concern of Commissioner Bengzon articulated on the floor, as I mentioned earlier, I have presented before the committee my proposed amendment on Section 5. During the suspension, Madam President, I consulted with Commissioners Bengzon and Natividad, who have acceded to be proponents of this resolution, and we also sought the expert advice of Commissioner de Castro.

With some modifications by Commissioner Regalado, our amendment is an insertion of a phrase in the first sentence of Section 5 after the word "agencies." The amendment is to insert the words "WHICH SHALL BE ORGANIZED, MAINTAINED, SUPERVISED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS" so that the first sentence of Section 5 will read: "The maintenance of peace and order within the region shall be the responsibility of the local police agencies WHICH SHALL BE ORGANIZED, MAINTAINED, SUPERVISED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS." The addition of the word "SUPERVISED" was upon the behest of Commissioner Regalado, with the advice of Commissioner de Castro.

I would like to know what is the thinking of the committee.

MR. DE CASTRO: The committee accepts the amendment, Madam President.

MR. MAAMBONG: Thank you, Madam President.

MR. NATIVIDAD: Madam President.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Upon the request of the chairman of the Steering Committee, I would like to make it of record that the insertion of the word "SUPERVISED" would mean that the local executives would be able to exercise day-to-day supervision over the operations of their police agencies, and this will constitute normal police operations. If and when they need help particularly on abnormal operations, the national government can step in to manage the situation.

In the case of internal and external discipline, as requested for clarification by the chairman of the Steering Committee when he stated that the problem might be not from external forces but a lack of discipline or a failure of discipline within the police forces of the area, the reply is that there are two kinds of discipline contemplated here: the internal disciplinary system and the external disciplinary system. The internal disciplinary system will be exercised by the local executives exercising supervisory powers in that they will take care of minor offenses and impose disciplinary measures on minor offenses. But on the fear of the chairman of the Steering Committee that a general failure of discipline might ensue and the national government will be helpless, the reply of the Committee is that the external disciplinary system will then be automatically in place because the National Police Commission has jurisdiction over serious offenses and it has the power to suspend, transfer and dismiss erring members of the police forces. On top of that, the national government shall maintain common services; meaning, the training services. There are 13 regional academics in place now and one national police academy. They conduct police examinations of three classes at a total of 6,000 or 7,000 examinees a year. They pay claims and death benefits as common services to all police forces in the country. They maintain crime laboratories which are not within the financial reach of most local governments. They also provide for fire service facilities which are quite expensive — P1,600,000 per truck — and which are extended to local governments by the national government.

Thank you, Madam President.

MR. JAMIR: Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. DE CASTRO: We agree to the statements made by Commissioner Natividad. And in addition to making the police force truly a good police force, the first examination given is an aptitude test to determine whether the examinee has the aptitude to become a policeman. Many people take this aptitude test, and we find that somebody can be a good lawyer, a good doctor, a good engineer but he cannot be a good policeman. So, he is rejected in our aptitude test, before he is trained and accepted in the police service. He cannot perform police service immediately even upon acceptance and appointment except after training for three months in our police academy.

Thank you, Madam President.

MR. JAMIR: Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: I have a simple amendment to Section 5, line 24, by deleting the word "maintenance" and substituting therefore the word "PRESERVATION."

MR. MAAMBONG: Madam President, the amendment which I have proposed, with Commissioners Bengzon and Natividad, has already been accepted by the committee; so it is within the jurisdiction of the committee. However, I would personally accept the amendment considering that if we use the word "PRESERVATION," that will save us the trouble of using the same word in the last line because the word "maintain" would be used twice. I think the proper word would be "PRESERVATION" but that is actually up to the committee which has accepted

my amendment.

MR. DE CASTRO: The committee accepts the amendment of Honorable Jamir.

MR. JAMIR: Thank you.

MR. RAMA: Madam President, I ask that Commissioner Romulo be recognized.

THE PRESIDENT: Is it on this first sentence?

MR. ROMULO: It is a question, Madam President.

THE PRESIDENT: Commissioner Romulo may proceed.

MR. ROMULO: Section 5 dichotomizes between internal peace and order of the region and external threat. If the Gentleman will read lines 28 and 29, it is stated:

The defense of the region against insurgency or invasion shall be the responsibility of the National Government.

My question is this: Suppose there is a general failure of peace and order within the region, may the national government intervene motu proprio or must it await the call from the local executive?

MR. DE CASTRO: It can intervene motu proprio, Madam President.

MR. ROMULO: I assume from the Gentleman's answer, therefore, that if the armed forces is in hot pursuit of a rebel force which enters the autonomous region, it may continue that hot pursuit without the permission of the local executive?

MR. DE CASTRO: Yes, Madam President.

MR. ROMULO: If the armed forces suspect that there is a sanctuary being used by rebel forces within the autonomous region, may the armed forces, on their own authority, proceed to attack them?

MR. DE CASTRO: Yes, Madam President, because the defense and security of the autonomous region is the responsibility of the national government.

MR. ROMULO: Even the internal peace and order?

MR. DE CASTRO: Yes, Madam President. The Honorable Davide proposed an amendment on lines 28 and 29, and we would request him to state his amendment. After that, we can answer the question of the Gentleman verily.

MR. ROMULO: To summarize, whenever in the opinion of the President there is lawlessness or some disorder within the autonomous region which, in the judgment of the President, the local police cannot handle, the President, as the commander-in-chief, may order the armed forces into the regional autonomous region and do whatever is necessary?

MR. DE CASTRO: Yes, Madam President, even without the request of the local executive in the area.

MR. ROMULO: Thank you, I asked this for the record.

MR. DE CASTRO: Thank you.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: The committee has accepted the amendment to the first sentence. May the Chair act on this before we go to the other sentence, Madam President?

THE PRESIDENT: If there are no further comments on this amendment to the first sentence, may we have it read again so that we can vote on it.

MR. DE CASTRO: The committee accepts the amendment.

THE PRESIDENT: Will the Commissioner read it again?

MR. MAAMBONG: With the accepted amendment of Commissioner Jamir, the first line will read: "THE PRESERVATION of peace and order within the REGIONS shall be the responsibility of the local police agencies WHICH SHALL BE ORGANIZED, MAINTAINED, SUPERVISED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS."

THE PRESIDENT. Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I propose my amendment on the last sentence. On line 28, between "defense" and "of," insert "AND SECURITY," then delete the clause "against insurgency or invasion." So, the whole sentence — this is now the final sentence taking into account the original proposal of Commissioner Regalado, who then will be the coauthor — will read as follows: "The defense AND SECURITY of the regions shall be the responsibility of the National Government."

MR. DE CASTRO: The committee accepts the amendment because it is more embracing than the original sentence.

THE PRESIDENT: Is there any objection to this proposed amendment of Commissioner Davide? (Silence) The Chair hears none; the amendment is approved.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: For clarification, we would like to read Section 5, as amended and approved by the body: "SEC. 5. The preservation of peace and order within the region shall be the responsibility of the local police agencies which shall be organized, maintained, supervised and utilized in accordance with applicable laws. The defense and security of the regions shall be the responsibility of the National Government."

MR. DAVIDE: Madam President, what about the phrase "The local executive of the constituent units" on lines 26 and 27?

MR. DE CASTRO: It is already deleted based on the amendment of Commissioners Maambong and Regalado.

MR. LAUREL: Madam President.

THE PRESIDENT: Commissioner Laurel is recognized.

MR. LAUREL: I understand that the second sentence which appears on lines 26 to 27 now reads:

Local executives of the constituent units shall exercise general supervision over the local police forces of their respective units.

That has to be approved before we go to the third and last sentence.

THE PRESIDENT: Will Commissioner de Castro explain?

MR. DE CASTRO: When we accepted the amendment of Commissioners Maambong and Regalado, lines 26 and 27 were automatically deleted. The reason is that the provision of local executives exercising general supervision over local police forces is contained in applicable laws.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Laurel, is the explanation satisfactory?

MR. LAUREL: When I stood up, I simply wanted to remove the word "The" following the statement of Chief Justice Concepcion to the effect that there is only one chief executive in the Philippines and, that is, the President. Also, in our studies in political law, there is only one Executive and it is the President. So, we cannot refer to local chief executives and that is why I removed the word "The." If we are to refer to heads of local governments, we should refer only to local executives. But if the whole sentence has been deleted, there is nothing I can really do about it.

Thank you.

MR. DE CASTRO: We are sorry that we failed to clarify the deletion when we accepted the amendment of Commissioners Maambong, Regalado and Jamir.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I just want to confirm that the understanding of the committee was that upon the acceptance and approval of my proposed amendment, the second sentence would be deleted. It was also explained to me by Commissioner de Castro that this provision actually appears in the Article on General Provisions, and which provision was formulated by Commissioners de Castro, Natividad and this Representation. So, it would not be necessary, Madam President.

Thank you.

MR. RAMA: Madam President, there are no registered proponents of amendments to Section 6.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I propose the deletion of the entire Section 6. The section is no longer necessary because it is conceded that the autonomous regions can only exercise the functions enumerated in Section 4.

THE PRESIDENT: What does the committee say?

MR. NOLLEDO: The committee accepts the amendment.

THE PRESIDENT: Is there any objection to the deletion of Section 6? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: Madam President, I understand that Section 7 has been amended by the committee. May we hear from the committee?

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Madam President, the committee has accepted the amendments introduced by Commissioners Calderon, Jamir, Colayco, de Castro and Monsod.

Section 7 now reads as follows: "DURING THE TERM OF THE FIRST CONGRESS, IT SHALL PASS THE ORGANIC ACTS FOR THE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS."

So, we deleted the one-year period stipulated in Section 7 because during the term of the first Congress, it may decide to pass the organic acts. So, we are giving Congress a longer time.

THE PRESIDENT: What is the pleasure of Commissioner Davide?

MR. DAVIDE: Madam President, whose particular term does the amendment refer to because we have a different term for the Senate and a different term for the Lower House?

MR. NOLLEDO: It should be immediately the first term, as understood, the first three years.

MR. DAVIDE: So, I think the first three years should be amended to "WITHIN THREE YEARS FOLLOWING THE CONVENING OF THE FIRST CONGRESS ELECTED UNDER THIS CONSTITUTION."

MR. NOLLEDO: Will Commissioner Jamir please manifest on behalf of his group, whether he accepts the amendment?

MR. JAMIR: Quoting Commissioner Suarez, I think the paternity has passed to the committee because it has accepted the amendment. So, it is for the committee to respond.

MR. NOLLEDO: It is enough that we manifest the intention taken from the statements of Commissioner Davide. So, as far as the committee is concerned, the words "DURING THE TERM OF THE FIRST CONGRESS" — meaning, within the first three years, Congress shall pass the necessary organic acts — would be sufficient.

MR. DAVIDE: Madam President, may I be allowed to continue?

THE PRESIDENT: The Gentleman may proceed.

MR. DAVIDE: The maximum term of the First Congress would actually be six years because it includes the Senate. So, the organic act may be passed even beyond the first three years, which would actually be the second term for the Lower House.

MR. NOLLEDO: No, that is why the intention of the committee is that the organic acts should be passed within the first three years.

MR. DAVIDE: That is why my proposal is as follows: "WITHIN THE FIRST THREE YEARS FOLLOWING THE CONVENING OF THE FIRST CONGRESS ELECTED UNDER THIS CONSTITUTION."

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: I remember, Madam President, that in the discussion regarding the Ople amendment yesterday, we were given an assurance that the organic act will be passed within one year. So, what happens to that. Does that not affect the Ople amendment which stated, as part of its persuasive force, that the organic act should be passed within one year of the First Congress? This actually gives Congress more leeway; it extends the time limit.

MR. NOLLEDO: Commissioner Alonto would like to react.

MR. ALONTO: Madam President.

THE PRESIDENT: Commissioner Alonto is recognized.

MR. ALONTO: This amendment was presented to the committee this morning, and the committee did not put up any objection to it because in the first place, in parliamentary parlance, Congresses are numbered — First Congress, Second Congress. The term "period" in parliamentary terminology, when we say "First Congress," refers to the term of the Lower House. The First Congress, for example, is counted on the term of the Lower House and not the Senate.

BISHOP BACANI: Yes, Madam President.

MR. ALONTO: Second, we realize that because of the Ople amendment which requires a consultative constitutional commission to draft for Congress the draft of the organic act, Congress must have more leeway at least within the first term of Congress. That is why the committee accepted the amendment.

BISHOP BACANI: Thank you.

I just want to note that part of the persuasive force of the Ople proposal is that it would not delay in any way the one-year deadline set in Section 7. But now, it is foreseen that it might delay this time limit.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: May I be allowed a brief response on this point.

THE PRESIDENT: The Gentleman may proceed.

MR. OPLE: I have no intention to challenge the latest amendment abbreviating — it is not really abbreviating but actually extending — the period for Congress to enact the organic laws from the period during which Congress shall enact the organic laws. But I only want to point out for the record that I do not agree to this extension. We are waiting a Constitution, of course, for generations to come, not only for the present but for our posterity. There is no harm in recognizing certain vital pragmatic needs for national peace and solidarity, and the writing of this Constitution just happens at a time when it is possible for this Commission to help the cause of peace and reconciliation in Mindanao and the Cordilleras, by taking advantage of a heaven-sent opportunity. I think if we acknowledge this as a valid objective, this is better served if we abbreviate the period for Congress to enact the organic laws as originally proposed within one year rather than extend it to three years.

The creation of the autonomous regions has raised the hopes and expectations of our people in those regions to the highest peaks in history. There are negotiations that will take place in Jeddah; there are negotiations now taking place with respect to the Cordilleras. And if the peoples of Mindanao and the Cordilleras now seek what we have, in effect, reneged on in the original deadline of one year, they may think that there has been a considerable relaxation from the original commitment of the Constitutional Commission to provide for autonomy and abbreviate the period during which the necessary laws will be enacted in order to make this autonomy real. As I said, I am not challenging this latest amendment which the committee has accepted, but in response to the point made by Bishop Bacani, I thought I would record my views.

Thank you, Madam President.

SR. TAN: Madam President.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: I also object to the prolongation of the one-year period to three years. I do not find the reason grave enough. From the point of view of Congress, they can delay the passage of the organic act, but from the point of view of the Cordilleras or Muslim Mindanao, it is unfair to make them wait again, after having waited for decades, just because Congress thinks they need more time.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: This Representation did not submit that proposal as his own proposal. I submitted that proposal precisely because the proposed amendment accepted by the committee would prolong the period. It would consider now the term of the First Congress, and I called the attention of the body that the Senate's term would be six years. So, in order to compel the First Congress, since that was accepted by the committee, to enact the measure, it must be within the term of the Lower House. I am in favor of the original proposal; as a matter of fact, it should be one year.

MR. NOLLEDO: Madam President, I would like to manifest that as chairman of the committee, I was made to believe by Commissioner Alonto, who is my adviser on this topic, that the three-year period would be reasonable. But in view of the objections on the part of my colleagues, this question should be submitted to the body for voting.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: When I joined the amendment of the Honorable Jamir regarding the term of the First Congress, our deliberations will show that we were in favor of one year. The reason that we set one year is that the Members of Congress may not be responsible enough, that we have to give them a deadline. The Members of Congress will eventually read all these proceedings and they will find out that it is the intent of this body that the organic act be passed within one year. But to state the one-year period categorically in the Constitution would not make the Congressmen and the Senators responsible enough not to take immediate action on this matter.

Thank you, Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN. I am strongly for the one-year period. I think it is not so much that we do not trust Congress; rather, we are stressing the urgency of the situation since we have premised, in part, the amendment on our search for peace.

Thank you, Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

I would like to clear up this matter because time may be of the essence. May I address a few clarificatory questions to the distinguished chairman of the committee.

I have read P.D. No. 1618 governing the organization of autonomous Regions IX and XII. I notice that this is very adequate and satisfactory, so much so that as I understand it from Commissioner Alonto, this has been put effectively into practice. So, with P.D. No. 1618 as the guideline, would the Commissioner think it would still be

difficult for Congress to come up with an organic act governing the autonomous regions in Mindanao and the Cordilleras within one year?

MR. NOLLEDO: I agree with the Gentleman, because P.D. No. 1618, as amended by P.D. No. 1843-A, can be a sufficient basis for Congress to enact the organic act. However, the provisions of these decrees are such that the autonomy given to these two regions is not truly meaningful because certain controls are left to the Office of the President. Even the regional funds are governed by laws and regulations which cover similar local and national financial transactions. So, actually, with due respect to Commissioner Alonto, I was in favor of the one-year period and I support the one-year period.

MR. SUAREZ: In order to work out all these mechanisms in the establishment of the two autonomous regions, does the Gentleman think it would be sufficient for Congress to provide for all of these within a period of one year?

MR. NOLLEDO: I think so, Madam President.

MR. SUAREZ: I understand that there are also certain preparatory steps to be taken before the autonomous regions could be organized and before the organic act could be legislated by Congress. Is the Gentleman thinking within that time frame, that is to say, would that one-year period still be reasonable, taking into account all of those factors leading to the organization of the autonomous regions which would be finalized and concretized with the enactment of the organic act?

MR. NOLLEDO: The Gentleman is referring to the consultations as authorized in Section 2 of the provisions on the autonomous regions.

MR. SUAREZ: That is right, Madam President.

MR. NOLLEDO: I think the one-year period can still be sufficient if Congress adopts a systematic way of dealing with the problem.

MR. SUAREZ: Granting that to be the case, does the Gentleman not feel that there is need for some degree of flexibility as far as time is concerned, although we can state into the record that it is the sense of the Commission addressed, of course, to the First Congress that they should do their work within a period of one year from the date it is convened?

MR. NOLLEDO: The Gentleman echoes the sentiments of Commissioner de Castro, and I think the statements of Commissioner de Castro will suffice. I do not like to give any further comment on that.

MR. SUAREZ: I thank the distinguished committee chairman.

MR. JAMIR: Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: When we presented that amendment to the committee, Section 7 still contains the provision that the Congress would define the territorial jurisdiction of the autonomous region, in addition to passing the organic act. But since the committee took out the duty to define the territorial jurisdiction of the autonomous region, if the committee will permit, I am willing to withdraw our amendment to cut short this discussion.

MR. NOLLEDO: The committee accepts the withdrawal and commends Commissioner Jamir for his high sense of statesmanship.

THE PRESIDENT: So, how will Section 7 now read?

MR. NOLLEDO: Section 7 now reads, as follows: "The Congress SHALL, within one year from election of its Members, pass the Organic Acts, for the autonomous regions in Muslim Mindanao and the CORDILLERAS."

MR. ABUBAKAR: Before the voting, may I give some information to our colleagues.

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: There are Christians in Mindanao, there are also Muslims in Mindanao who are now working in the Middle East. And among the leaders of a movement to free Mindanao from the rest of the archipelago is Nur Misuari. He is advocating, according to him, an autonomous government, which the Manila government believes is an act of secession.

So, in order to foreclose and convince the rest of the Philippines that Mindanao autonomy will be granted to them as soon as possible, more or less, to dissuade these armed men from going outside while Mindanao will be under the control of the national government, let us establish an autonomous Mindanao within our effort and capacity to do so within the shortest possible time. This will be an answer to the Misuari clamor, not only for autonomy but for independence.

Why should we delay if there is no justification to delay further? If we can make the autonomous government operate within six months, one year, one-and-a-half year, let it be so. Some people from Mindanao who are outside the Philippines — like Misuari and his groups and the other dissident groups of Salamat and Pundato — will be convinced that eventually the policy-making decision of the region will be in the hands of the people of Mindanao.

If we can do it in one year, let us do it in one year and establish this autonomous region. This will be in partial answer to the Misuari campaign to segregate Mindanao. If it can be done in one-and-a-half year, let it be so.

So, should we not provide a limitation within which implementation of the autonomy should be done? The answer is "yes." It should be established within the shortest possible time.

Let our experts in the Commission, considering that we are a conglomeration of lawyers and economists and all that, formulate in time the structure of an autonomous Mindanao. Would it be possible for us to organize an autonomous Mindanao within the time element of one year, two years, or three years? Let us do it as soon as possible.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I just want to ask a question. If we enact this provision and, let us say, Congress, being saddled with so many problems of national import during the first year, fails to comply with this provision, what penalty do we impose on Congress?

THE PRESIDENT: Shall we deliberate over this during lunch? It is almost one o'clock.

SUSPENSION OF SESSION

MR. RAMA: Madam President, I move that we suspend the session until two-thirty in the afternoon.

THE PRESIDENT: The Chair suspends the session.

It was 12:35 p.m.

RESUMPTION OF SESSION

At 2:47 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Before we start, may I acknowledge the presence of students from the Rogationist College Seminary (Parañaque), students from the Philippine Women's University and, again, our brothers from Mindanao and the Cordilleras who are here to witness the continuance of the consideration of the Article on Local Governments, more particularly, of the provisions on the autonomous regions.

MR. RAMA: Madam President, I ask that Commissioner Rodrigo, who was on the floor when we suspended the session, be recognized.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, when the session was suspended this morning, I propounded a question which has not yet been answered. However, in order to save time, instead of interpellating, which can take a long time, I will just expound on my stand on this matter.

I do not think that we should impose on Congress a very limited term of one year from the time it convenes within which to enact organic acts, both for Muslim Mindanao and the Cordilleras. First of all, let us remember that this is the first Congress after martial law. Many of the Members will be neophytes. There will be 250 Members of the House, 24 Members of the Senate. They will start from scratch in organizing Congress. They will have to enact the Rules from scratch. This, alone, will take months. They will have to elect the officers — the President of the Senate, the Speaker of the House, the Secretary, the personnel of Congress — then they will have to appoint the members of different committees. All this will take time. Remember, Madam President, that in the coming Congress, we will have a multiparty system, not a two-party system. It would be simpler under a two-party system to elect the officers. But under a multiparty system, there will initially be alliances and coalitions before they can elect and organize. This again will take time. This will take months. Besides, we are establishing a bicameral legislature. A bill which comes from one House — and I suppose the bill on the organic act will originate from the House — will first be acted upon by the House. It will first pass through the committee. There will be public hearings. After that, it will be debated and approved on the floor during its consideration on Second Reading and finally approved on Third Reading. Then, the bill goes up to the Senate and the whole process starts anew in the Senate — it goes to the committee, it will be discussed in the committee, there will be hearings, there will be discussions and amendments on the floor and, in case of disagreement between the versions of the Senate and the House, there will be conference committees which will meet, and this will again take time. Remember, Madam President, that this First Congress will be saddled with the tremendous task of having to dismantle so many mistakes committed during the martial law regime. This First Congress will have to dismantle many undesirable presidential decrees because, otherwise, these presidential decrees will be considered in force and effect.

Remember also, Madam President, that in the establishment of these autonomous regions in Mindanao and the Cordilleras, Congress will be called upon to enact an organic act, which means a Constitution. How long have we been here trying to frame a Constitution for our country? Morning, afternoon, evening, we work; and this is our sole task. In the case of the First Congress, it will have hundreds, if not thousands, of other tasks. It will be saddled with enacting the budget, the public works bill and many other local bills. So, how can we expect it to finish posthaste the organic acts of Mindanao and the Cordilleras? Remember that they will be starting from scratch in this task. We have not started from scratch. We have as basis the 1935 Constitution and the 1973 Constitution. We just have to repeat many of their provisions. Yet up to now, we are only half through. So, how

can we expect Congress to finish this task within one year, Madam President? On top of that, there is a provision in this article which we are discussing that before Congress can act, there must be several steps taken. First, sectoral groups will have to prepare a list of names from which the President can appoint the members of the consultative commission. Then the commission is formed but it will take time before the commission is duly organized. After that, Congress will have to consult this commission and draft the organic act. And maybe the organic act for Mindanao will be different from that for the Cordilleras.

All this requires time. I will not speak long, Madam President. I have other arguments, but we are racing with time. I reiterate that we should not place our First Congress, composed of representatives elected by their constituency, in a very, very difficult situation.

Wika nga sa Tagalog, marahil ay gaganda tayong lalaki sa mga Muslim sa Mindanao at sa mga taga-Cordilleras subalit ilalagay naman natin ang mga kinatawan ng bayan sa napakapangit at napakahirap na katayuan.

Madam President, even Commissioners Alonto and Abubakar who are from Muslim Mindanao agree that we should give Congress more than one year. They agree that we should give it three years. Why should we insist on giving Congress only one year?

Thank you very much, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Before we plunge deeper into this debate, I would like to narrow down the issues by calling the attention of the Commissioners that the provision earlier accepted by the committee — that it would be during the first term of Congress — may not be feasible or acceptable to many because we have forgotten that the first term of Congress under our Constitution is not three years but five years. It has been the misimpression here that this first term of Congress would refer only to a three-year term. But Congress or the House will have five years during its first term.

So, we could probably narrow down the debate to a specific period. This reminder comes from Commissioner de Castro and this Representation.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

I just want to give a brief response to the remarks given by my distinguished kababayan, Commissioner Rodrigo. Originally the draft of this section of the Article on Local Governments provided for six months for Congress to enact the appropriate organic acts for the two autonomous regions. After taking full account of the concerns expressed just now by Commissioner Rodrigo, the members of the committee decided to extend this to a period of one year.

The reason for this abbreviation of the period for the reconsideration of Congress of the organic acts and their passage is that we live in abnormal times. In the case of Muslim Mindanao and the Cordilleras, we know that we deal with questions of war and peace. These are momentous issues in which the territorial integrity and the solidarity of this country are being put at stake, in a manner of speaking.

We are writing a peace Constitution. We hope that the Article on Social Justice can contribute to a climate of peace so that any civil strife in the countryside can be more quickly and more justly resolved. We are providing

for autonomous regions so that we give constitutional permanence to the just demands and grievances of our own fellow countrymen in the Cordilleras and in Mindanao. One hundred thousand lives were lost in that struggle in Mindanao, and to this day, the Cordilleras is being shaken by an armed struggle as well as a peaceful and militant struggle.

I do not think Congress, in its wisdom, will not see the momentous opportunity presented before them through a one-year deadline, for them — their own wisdom, their own grace, their own sagacity — to bring to bear upon this crisis that beset our country and threaten our national solidarity so that at the soonest possible time, we can help, through this Constitution, restore the peace and solidarity in these regions.

I do not have to repeat what is known to all. There are urgent negotiations that are now afoot. The Islamic organizations consisting of 42 nations, which puts the Mindanao question on the agenda every year — at the very top of the agenda in their annual meeting — will be convened in Jeddah very soon. Again, they will talk about the problem in Mindanao.

Rather than give opportunity to foreign bodies, no matter how sympathetic to the Philippines, to contribute to the settlement of this issue, I think the Constitutional Commission ought not to forego the opportunity to put the stamp of this Commission through definite action on the settlement of the problems that have nagged us and our forefathers for so long.

So, Congress will be busy; there is no question about that. They will be busy getting organized; they will be busy setting up the Rules of the House, electing their officers, but at the same time, momentous issues of national unity, of war and peace, ought not to be taken lightly even in competition with other admittedly urgent priorities. Congress will not begrudge themselves the effort to address this question at the soonest possible time, knowing that the solidarity and peace of this country are the issues.

I have been asked by the committee to state my views concerning the proposed alternative of waiting for three years instead of one year before Congress enacts the organic act. I submit, Madam President, that one year is sufficient, given the momentous character of the issues that have to be addressed by Congress; it is also reasonably sufficient.

Thank you, Madam President.

MR. ABUBAKAR: Madam President.

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: Madam President, I address this honorable body, conscious of the patriotism of Commissioners Rodrigo and Ople. Both are from Luzon, but they are very concerned with the situation in the South, especially in its struggle for autonomy.

Autonomy is welcomed by the South anytime, but there are diverse factors that would not, despite our enthusiasm and desire, permit us to accomplish the organization of autonomous Mindanao within one year, two years or three years as the Gentlemen of the Commission calculate. But I think everyone of us is imbued with enough patriotic fervor like Mr. Ople, who would like to grant autonomy to the South as soon as possible.

Let us not put a time limit to meet the different thought and estimate of both my friends, Commissioners Ople and Rodrigo, who are equally concerned with the autonomy of Mindanao. As a challenge to the patriotism of both this Commission and the legislature which will convene as the First Congress, let us not put a time limit but amend the provision of this Constitution to establish this autonomous region as soon as possible and practicable.

The qualifying time element and practicality would meet the objection of Mr. Rodrigo as to the composition and

the time required. This would also satisfy the desire of Mr. Ople who wants to give to his fellow brothers in Mindanao the autonomy that they deserve and wants to hand to those people of the South as soon as practicable.

Therefore, Madam President, can we not compromise these two conflicting objections regarding time and place by putting the phrase "AS SOON AS PRACTICABLE." There is no time limit in challenging the patriotism of Congress to enact this law which will be welcomed in Mindanao; they may enact it within six months after it is convened, or three months after it is convened. If they would go beyond that and the people of Mindanao are not satisfied, they will have to answer during the electoral process.

There can be a compromise in this matter by not just limiting the time but by putting the phrase "AS SOON AS PRACTICABLE." That is the only compromise I can offer which would be satisfactory to both opponents whose calculations as to time seem not to agree.

MR. NOLLEDO: Madam President, the phrase "AS SOON AS PRACTICABLE" has never satisfied the committee. It can even reach 10 years, so we disown the statements of the Gentleman.

MR. ABUBAKAR: Would it not be a challenge to those in the convention or in the legislature, if we make it 10 years?

MR. NOLLEDO: No, I thought the Gentleman is seeking comment from the committee; we do not support the words "AS SOON AS PRACTICABLE."

THE PRESIDENT: Will Commissioner Nolleddo please allow the Chair to address a question to Commissioner Abubakar?

Before we suspended the session for lunch, there was a proposal that within the first term of Congress, the organic act is to be passed.

There was also a definition of what "first term" means. Would the Gentleman consider it reasonable? It is up to us now to determine what period of time is included within that first term.

MR. ABUBAKAR: That would be reasonable and It anticipate that Congress, in their patriotism and love of country, would grant autonomy to Mindanao in two months. There is a leeway given to the whole Congress that within their term, this autonomy will be granted.

I agree with the Gentleman, Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

I can see apprehension on the part of the Commission to grant the speedy enactment of the organic act on the assumption that Congress will find it extremely difficult to do this given all the constraints and the fluidity of the national situation. Let me just remind the body that in Section 15 of the revised provision, we approved the provision that Congress shall enact the organic act with the assistance and participation of a regional consultative commission.

On the side of optimism, I wish to share the information with this Commission that in the various public hearings, the multisectoral groups indicated that they are already working on a special charter for the autonomous regions in anticipation of the approval of the provisions submitted to the Commission.

In other words, they are saying that they are not starting from scratch. The consultations that have been going on

among various sectors in both Muslim Mindanao and the Cordilleras are strong indications that it will not take all that long to finish the organic act given the spirit of Section 15, which means that there will be a partnership between the autonomous regions and Congress in the enactment of the organic act. I am pretty optimistic that it can be done within one year.

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, may I offer a compromise amendment which will read as follows: "The Congress shall, within one year from ITS ORGANIZATION, ENDEAVOR TO pass the Organic Acts for the autonomous regions in Muslim Mindanao and the Cordilleras." Would that satisfy all these conflicting amendments?

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: As one of the proponents of this amendment, I find this proposal acceptable in the context that this will allow Congress a margin of voluntary choice, so that it will probably spur them to endeavor to enact the organic acts even ahead of the one-year deadline. By providing this margin of choice to the Congress, we take full account of their dignity and patriotism and at the same time we ensure that there will be no delay in the passage of the organic acts.

Thank you, Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I speak in favor of Commissioner Ople's position, Madam President.

There is a saying in Spanish "grandes males, grandes remedios" which means great maladies, great problems demand great remedies, great solutions. Madam President, we have in Mindanao at present an ongoing, protracted civil strife. It has caused the lives of thousands. We have at present continuing human rights violations, salvaging, disappearances, torture. Poverty stalks the once land of promise. It is my humble submission that given the gravity of these problems, Congress, in its prudence, foresight and acumen, will try its very best to pass an organic act within one year. Commissioner Bennagen said that Congress will not start from scratch because they have something to start with. Multisectoral bodies are now trying their best in formulating an organic act.

Thank you, Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to advert to what the Chair stated that before we suspended the session, there was a proposal by some Commissioners that we give Congress one term. A term of Congress means the term of the Members of the House, which is three years. So, let us choose between giving Congress one year or giving it three years. I would like to explain that when we say we give Congress three years, it does not mean to say that Congress will wait until after three years before acting. No, that is the maximum. We would start from the presumption that these Members of Congress who are elected by the people — several of whom will be elected from these autonomous regions — have the well-being of the country at heart. We must start from that presumption. We, in this Constitutional Commission, are merely appointive members. We should not set a time limit on the Members of Congress who will be elected by our people. Why should we? And, if we are going to

give them time limit, let us make it reasonable. If we impose on Congress a time limit of one year, what happens if Congress fails to enact this legislation within one year? Are we going to penalize its members? No. Are we going to say that, since one year has already elapsed, Congress can, therefore, no longer enact these organic acts? That would be absurd. The sponsors say we are not making this mandatory; we are just saying Congress will endeavor. But if that is the case, what is the use of placing a provision in the Constitution which is optional, which has no sanction?

So may I suggest that based on what Madam President said, we should just give Congress one year or three years. That will simplify matters and save time. That is my suggestion.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: We have been repeatedly informed, especially by our three Muslim Commissioners, that autonomous Regions IX and XII are in actual operation. In fact, they say that even the special courts are actually functioning. If that is so, then there is no urgency in requiring Congress to pass within one year the so-called "organic acts." I have always been wary and, in a way, opposed to adjectives like "highest priority," "utmost" or "foremost" because this Commission should give Congress sufficient discretion and judgment to act as the members thereof should act.

So I join the remark of Madam President regarding the proposal of the first term of Congress which is intended to be three years but "within" not "after," so as to give discretion to Congress to act accordingly.

And before I finish, I sometimes feel perturbed by expressions like "this is the highest" or "grandes males," or "the organic act will be the solution to our problem of solidarity and peace," because I believe that giving autonomy to the autonomous regions is a good principle, but I would also add that we should not be giving too many special legislative authority along with local autonomy to autonomous regions which will not be enjoyed by other regions in this country. In other words, while we must acknowledge local autonomy to the autonomous regions, we should not forget that the other regions of this country are likewise entitled to similar equal local autonomy.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA: This is a kind of question that can yield to an easier solution under a suspended session, because it concerns a matter of period, from one to three years, where the gap is not tremendous. Therefore, I move that we suspend the session for two minutes.

THE PRESIDENT: The session is suspended.

It was 3:20 p.m.

RESUMPTION OF SESSION

At 3:36 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, the proponents have come to a happy compromise. I ask the chairman of the

committee to state the compromise.

THE PRESIDENT: Will the Commissioner please state the happy compromise?

MR. NOLLEDO: May we ask Commissioner de los Reyes to please read the compromise provision.

MR. DE LOS REYES: Madam President, with the Chair's permission, the provision reads: "THE CONGRESS SHALL WITHIN EIGHTEEN (18) MONTHS FROM THE ORGANIZATION OF BOTH HOUSES PASS THE ORGANIC ACTS FOR THE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS."

MR. DAVIDE. Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: To clarify the matter and to make it the mandate of the First Congress elected under this new Constitution, I propose the following amendments: Before "CONGRESS," insert the word "FIRST," and before the word "SHALL," insert the phrase "ELECTED UNDER THIS CONSTITUTION," so that it would read: "THE FIRST CONGRESS ELECTED UNDER THIS CONSTITUTION SHALL WITHIN EIGHTEEN MONTHS (18) FROM THE ORGANIZATION OF BOTH HOUSES PASS THE ORGANIC ACTS."

I am referring specifically to the First Congress elected under this Constitution.

THE PRESIDENT: Is that acceptable?

MR. DE LOS REYES: I accept the amendment, but I leave it to the committee.

MR. NOLLEDO: The committee accepts the amendment, as amended by Commissioner Davide.

MR. DE LOS REYES: Thank you, Madam President.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Just a few questions for the record. What is the meaning of "FROM THE ORGANIZATION"? When is that?

MR. DE LOS REYES: "FROM THE ORGANIZATION" includes the election of the Senate President, the Speaker of the House of Representatives, all the officers and the formation of the different committees.

MR. RODRIGO: So that is from that moment?

MR. DE LOS REYES: Yes, it also includes the adoption of the respective Rules of both Houses.

MR. RODRIGO: I thank the Commissioner.

MR. DE LOS REYES: Thank you, Madam President.

THE PRESIDENT: Will Chairman Nollado please read Section 7 now so that the body can vote?

MR. NOLLEDO: Section 7 now reads: "THE FIRST CONGRESS ELECTED UNDER THIS CONSTITUTION SHALL WITHIN EIGHTEEN (18) MONTHS FROM THE DATE OF ORGANIZATION PASS THE ORGANIC ACTS FOR THE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS."

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: It should be "ORGANIZATION OF BOTH HOUSES."

THE PRESIDENT: What does the committee say?

MR. NOLLEDO: I will read the amendment as amended by Commissioner Davide. "THE FIRST CONGRESS ELECTED UNDER THIS CONSTITUTION SHALL WITHIN EIGHTEEN (18) MONTHS FROM THE TIME OF ORGANIZATION OF BOTH HOUSES PASS THE ORGANIC ACTS FOR THE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS."

VOTING

THE PRESIDENT: As many as are in favor of Section 7, as amended, please raise their hand. (All the Members raised their hand.)

The results show 30 votes in favor, none against and no abstention; so Section 7, as amended, is approved.

MR. RAMA: Madam President, there is just one more unfinished item under this article and this is Section 4, copies of which have been distributed.

THE PRESIDENT: Will the Commissioners please check their own copies of Section 4, which have been circulated.

MR. NOLLEDO: Madam President, Section 4, as amended, now reads as follows: "SEC. 4. Within its territorial jurisdiction AND WITHIN THE FRAMEWORK OF THIS CONSTITUTION, NATIONAL POLICIES; LAW AND DEVELOPMENT, an autonomous region shall have legislative authority, AS PROVIDED IN ITS ORGANIC ACT over the following:

1)

Administrative organization;

2)

Regional taxation and other revenue-raising measures;

3)

Ancestral domain and natural resources;

4)

PERSONAL, FAMILY AND PROPERTY RELATIONS;

5)

INFRASTRUCTURE DEVELOPMENT INCLUDING URBAN AND RURAL PLANNING and DEVELOPMENT;

6)

AGRICULTURAL, COMMERCIAL AND INDUSTRIAL PROGRAMS AS WELL AS ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT;

7)

Establishment, maintenance and administration of schools OFFERING FORMAL AND NON-FORMAL EDUCATION, INCLUDING ADOPTION OF ADDITIONAL CURRICULA CONSISTENT WITH THE CULTURAL HERITAGE OF THE REGION;

8)

PROMOTION AND REGULATION OF TRADE, INDUSTRY AND TOURISM WITHIN THE REGION;

9)

Establishment, operation, maintenance AND ADMINISTRATION of health, welfare and OTHER social services, PROGRAMS AND FACILITIES;

10)

Protection of the environment in accordance with THE standards and regulations of the national government;

11)

Preservation and development of the cultural HERITAGE OF the region;

12)

PROMOTION OF ADEQUATE AND APPROPRIATE COMMUNICATION SYSTEMS FOR THE REGION;
AND

13)

Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region."

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I have presented perfecting amendments to the first paragraph of Section 4. This was formulated with the help of Commissioner Davide and I will read it for the record: "Within its territorial jurisdiction, AND WITHIN THE FRAMEWORK OF THIS CONSTITUTION AND THE LAWS AND DEVELOPMENT PLANS, POLICIES AND GOALS OF THE NATIONAL GOVERNMENT, an autonomous region shall have legislative POWERS AS PROVIDED IN ITS ORGANIC ACT, over the following . . ."

We have presented this proposed amendment to the committee chairman, Madam President.

THE PRESIDENT: What does the committee say?

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Before the committee accepts, may we know from the proponents the meaning of the phrase "NATIONAL DEVELOPMENT PLANS AND GOALS"?

MR. MAAMBONG: As I said, this was formulated with the help of Commissioner Davide. The word "NATIONAL" in the draft I presented to the body has been erased and substituted with the word "LAWS," so it now reads: "FRAMEWORK OF THIS CONSTITUTION AND THE LAWS AND DEVELOPMENT PLANS, POLICIES AND GOALS OF THE NATIONAL GOVERNMENT."

MR. NOLLEDO: Madam President, it seems to me that the words "PLANS AND GOALS," even "POLICIES OF THE NATIONAL GOVERNMENT" as well as "DEVELOPMENT PLANS" may come from technocrats on the administrative level because they are separated from the word "LAWS." And these plans, policies and goals may even negate the powers that we are granting under Section 4 of the provisions on autonomous regions, so the committee regrets that it cannot accept the amendments.

MR. MAAMBONG: The problem as I see it is in the original formulation which says: "FRAMEWORK OF THIS CONSTITUTION AND THE NATIONAL POLICIES, LAW AND DEVELOPMENT." I cannot get the concept very well. As far as I am concerned, the connection is not very specific. So, actually, in our proposed amendment we did not get anything out of the original formulation. We only put it, to our mind, in a more specific manner.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

May we address a question to the distinguished proponent?

MR. MAAMBONG: Yes.

MR. SUAREZ: The Commissioner is seeking the introduction of the phrase "THE LAWS AND NATIONAL DEVELOPMENT PLANS, POLICIES AND GOALS." Did I hear him correctly?

MR. MAAMBONG: Yes.

MR. SUAREZ: This is an accurate reflection of what appears under Section 10, P.D. No. 1618 wherein the phrase "shall exercise local legislative powers over regional affairs within the framework of national development plans, policies and goals" is found. Is that not correct?

MR. MAAMBONG: That is correct. As a matter of fact, the Commissioner is reading the material which was kindly furnished us by the honorable Secretary-General upon my request.

MR. SUAREZ: Then I thank the Commissioner for that. That is exactly what we have been trying to point out since this morning, that under P.D. No. 1618 many of the provisions now sought to be incorporated in the Article on Autonomous Regions are already included therein. Is that not correct also?

MR. MAAMBONG: That is correct because P.D. No. 1618 contains words like "control" and that would not be in keeping with the policy on autonomous regions as enunciated by the honorable chairman of the committee. So we had to take out words like "control" and others. But in the formulation of the honorable members of the committee, they mentioned "development" without any colorable connection to the other parts of the section. That is why we defined the word "development" in the original formulation of the committee.

MR. SUAREZ: We thank the Commissioner for the clarification and for furnishing us the desired material.

MR. MAAMBONG: May I know from the Commissioner if he supports this proposed amendment?

MR. SUAREZ: The Commissioner should convince me a little further.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Madam President, there are no more comments to the amendment.

THE PRESIDENT: Who is the next speaker?

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: May I know from the committee whether these 13 items that appear in Section 4, as amended, and reamended must appear in the organic act or the legislative measure to be enacted by Congress?

MR. NOLLEDO: Yes.

MR. PADILLA: In other words, they are all mandatory, and the Congress in its discretion cannot choose to classify, modify, reduce or make any alterations thereof?

MR. NOLLEDO: Yes, in order to strengthen local autonomy. But, of course, the autonomous region need not legislate on all of these, only as its legislature may deem appropriate.

MR. PADILLA: No, I am talking about the Congress. When we specify the 13 items, does that mean that Congress has no discretion whatever but must follow even the order — Nos. 1, 2, 3 up to 13 — to be included as integral parts of the so-called organic act?

MR. NOLLEDO: We are not asking Congress to follow the order as it appears here. However, to make it clearer, I think Congress has some discretion in laying down certain conditions that are reasonable under which these powers may be exercised.

MR. PADILLA: But the Commissioner has stated that Congress cannot reduce or eliminate any of these items.

MR. NOLLEDO: I think the Commissioner is right.

MR. PADILLA: No, the Commissioner should not say I am right, for I do not agree. That is not my opinion.

The next question is: There are 13 items of legislative authority or power for these two autonomous regions. Are the other political subdivisions in the Republic of the Philippines, like the provinces, have the same or similar powers or legislative authority?

MR. NOLLEDO: The Commissioner knows that we are only recognizing two autonomous regions. These provinces will derive benefits from national laws, but not under this section.

MR. PADILLA: In other words, the provinces, cities and municipalities do not have this additional legislative power or authority?

MR. NOLLEDO: When we talk of regional taxation in relation to other political units, we do not preclude the power to tax of these other political units. Even some of the powers of regional governments may be exercised in the appropriate areas by other local government units subject to requirements of national laws.

MR. PADILLA: In other words, instead of the word "regional," we make it provincial, city or municipal. And man all these 13 items be exercised equally by the other political subdivisions?

MR. NOLLEDO: Not all of the powers.

MR. PADILLA: Not all.

MR. NOLLEDO: The administrative organization of other local government units shall be provided for in the Local Government Code, because these autonomous regions are really special regions.

MR. PADILLA: In other words, we are granting to these two special regions, in the concept of local autonomy,

more or additional legislative powers that are not enjoyed by the other political subdivisions?

MR. NOLLEDO: Yes, powers that are not enjoyed by other political subdivisions. That could be the effect because these regions have special powers.

MR. PADILLA: We are granting to these two regions additional legislative authority or powers that are not enjoyed by the other political subdivisions?

MR. NOLLEDO: I would say "that are not necessarily enjoyed" because these regions, given special autonomy, are the most neglected areas in the Republic.

MR. PADILLA: The question is not of supposed "neglected areas." We are willing to grant local autonomy, but it seems that we are granting — by enumerating 13 items of additional legislative powers or authority — more powers or more autonomy than those recognized or granted to other provinces, cities and municipalities.

MR. NOLLEDO: Yes, but the Commissioner will notice that in the upper part, these will be subject to national policies and laws. I think that would be the saving clause. That is very important.

MR. PADILLA: I am against this Section 4 because it is discriminatory against the greater number of political subdivisions in the country and it is, in a way, class legislation for two particular regions.

MR. NOLLEDO: As I know it, class legislation does not apply to constitutional provisions.

MR. PADILLA: That may be true in a technical sense, but the principle of equality as against discrimination applies whether it is in the Constitution, in the law or in other public matters.

MR. OPLE: Madam President, just to complete the record with respect to the intent of the committee and in the light of the interpellation by Commissioner Padilla, may I call the body's attention again to the fact that there is a dominant national community in the Philippines, and this consists of people like most of us. They are Tagalogs, Visayans, Ilocanos, Kapampangans, Pangasinenses and others. But these are generally the lowlanders. They are Christians; they are the dominant national community. The reason this Constitutional Commission is granting autonomy to two regions, the Muslim Mindanao and the Cordilleras, is precisely, so that they can achieve a certain level of legal self-sufficiency in their lives, complete with some measure of self-determination within the larger framework of the national sovereignty and the territorial integrity of the Philippines. Autonomy is actually a creative alternative to secession. This is how autonomy is seen in most parts of the world today, especially after World War II. And so, in granting a measure of self-determination with some legal self-sufficiency to these regions, we are not discriminating against the dominant national community. I think the grant of autonomy including the enumeration of items which the autonomous regions may legislate according to law should be rather seen in the context of a belated effort on the part of the dominant national community to help our economically, more laggard brothers keep in step in the days to come with the dominant national community.

Thank you, Madam President.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May I seek some clarification from the committee as a follow-up to the questions of Commissioner Padilla as to whether these items in Section 4 should, of necessity, be included in the organic acts or that some of them may not be included because of a portion of the provision here which says: "an autonomous region shall have legislative authority AS PROVIDED IN ITS ORGANIC ACT." Does the phrase "AS PROVIDED IN ITS ORGANIC ACT" properly spell out "AS MAY BE PROVIDED IN ITS ORGANIC ACT" or

"AS SHALL BE PROVIDED IN ITS ORGANIC ACT"?

MR. NOLLEDO: I would say "AS SHALL BE PROVIDED."

MR. REGALADO: And, therefore, it is mandatory.

MR. NOLLEDO: Yes, because when the words were added by Commissioner Rodrigo, he wanted some symmetrical appearance and so, I agreed to insert the words "AS PROVIDED IN ITS ORGANIC ACT."

MR. REGALADO: We contemplate two autonomous regions for the present. Is it envisioned by the committee that the same provisions shall appear in the two organic acts for the two autonomous regions, meaning, a uniformity of content in the taxonomy of legislative authority?

MR. NOLLEDO: I would say so, but if the Commissioner is contemplating a possible situation where the organic act does not provide for any of these powers, I would say that these powers may nevertheless be exercised by the legislature of the autonomous regions because of the constitutional authority to do so.

MR. REGALADO: In other words, the organic act for the Cordillera shall include all these powers as within the legislative authority for that particular autonomous region, and the same thing shall also appear in the organic act for Muslim Mindanao?

MR. NOLLEDO: Yes.

MR. REGALADO: Would the same apply if in the future there should be other autonomous regions that may be created? Would the same requirement, mandatory in nature in the taxonomy of legislative authority, apply as a matter of uniformity and principle? Or would there be exceptions?

MR. NOLLEDO: I would recommend that they should apply; but please take note that the Constitutional Commission has decided to authorize the formation of only two autonomous regions, specifically Muslim Mindanao and the Cordilleras.

MR. REGALADO: So if all of these should, of necessity, appear anyway as within the legislative authorities of the autonomous regions, why do we still have to put the phrase "AS PROVIDED IN ITS ORGANIC ACT" instead of just saying "an autonomous region shall have legislative authority over the following. . ."

MR. NOLLEDO: It is more of symmetry.

MR. REGALADO: Putting that proviso could be misconstrued as a qualification. If the purpose is really to confer all these legislative powers uniformly upon all autonomous regions, we should eliminate the qualifying phrase and go straight to the point and state "an autonomous region shall have legislative authority or power over the following." That would eliminate any possible doubt.

MR. NOLLEDO: I would like to answer that question in one aspect. The committee feels that — and this in answer to Commissioner Padilla's question — although the legislature may not reduce these powers, it may lay down reasonable conditions under which these powers may be exercised. That is the reason I agreed with the inclusion of the words "AS PROVIDED IN ITS ORGANIC ACT." The legislature may provide the means by which these powers may be exercised because some of the powers herein enumerated are general in character.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: There is a previous question. The Maambong amendment calls for a vote. So may I suggest that we vote on it.

MR. MAAMBONG: Madam President, I would like to appeal again to the committee to favorably consider the amendment considering that Commissioner Davide and I really worked overtime on this. (Laughter) But more important, the proposed amendment does not really diminish the original formulation of the committee. Rather, we feel very strongly that it enhances the provision as formulated by the honorable committee.

Thank you, Madam President.

THE PRESIDENT: We will give the committee time to study this proposed amendment.

SUSPENSION OF SESSION

MR. NOLLEDO: May we ask for a one-minute suspension?

THE PRESIDENT: The session is suspended.

It was 4:03 p.m.

RESUMPTION OF SESSION

At 4:23 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

REV. RIGOS: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

REV. RIGOS: We suggest that Commissioner Maambong be recognized.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. NOLLEDO: Madam President, instead of Commissioner Maambong, I ask that Commissioner Bernas be recognized.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May we wait for Commissioner Maambong.

REV. RIGOS: Madam President, Commissioner Maambong is now running to the session hall.

THE PRESIDENT: So, whom shall we hear, Commissioner Maambong or Commissioner Bernas?

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I was informed by the honorable chairman that there is a formulation of the provision of Section 4, first paragraph thereof, which substantially covers my proposed amendment. I would like to hear it from Commissioner Bernas so that I could readily give way and so that we can finish this article.

FR. BERNAS: The formulation of the introduction to this section would read this way: "Within its territorial jurisdiction AND WITHIN THE FRAMEWORK OF THIS CONSTITUTION AND NATIONAL LAWS THE ORGANIC ACT OF autonomous REGIONS shall PROVIDE FOR legislative POWERS over: . . ." Then, the enumeration follows. We shortened the list with the agreement of the committee.

MR. MAAMBONG: Madam President, if that formulation is acceptable to the committee, I give way to that

proposed amendment of Commissioner Bernas because it substantially covers my proposal.

Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I wonder if Commissioner Bernas will agree to an amendment to avoid the repetition of the word "within." So instead of the phrase "WITHIN THE FRAMEWORK," it should be "SUBJECT TO THE PROVISIONS OF THIS CONSTITUTION."

FR. BERNAS: I have no difficulty with that, and if the committee has no difficulty with it, I will gladly yield.

MR. NOLLEDO: We have no objection. The committee, with gratitude to Commissioner Maambong, accepts the amendment of Commissioner Bernas as amended by Commissioner Davide.

THE PRESIDENT. So this will now be a joint proposed amendment of Commissioners Bernas, Maambong and Davide? Is that correct?

MR. NOLLEDO: Yes, Madam President.

FR. BERNAS: So the introductory clause would read: "Within its territorial jurisdiction, AND SUBJECT TO THE PROVISIONS OF THIS CONSTITUTION AND NATIONAL LAWS, THE ORGANIC ACT OF autonomous REGIONS shall PROVIDE FOR legislative POWERS over: . . ." then we start enumerating.

THE PRESIDENT: What does the committee say?

MR. NOLLEDO: The committee accepts the proposed amendment.

THE PRESIDENT: The committee has accepted the amendment.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

FR. BERNAS: The enumeration of the various matters will follow "administrative organization."

MR. NOLLEDO: The committee accepts that. Actually, that is not an amendment.

FR. BERNAS: Yes, it is not an amendment. Pardon me for the repetition of the original draft. Then, "2) Regional taxation and other revenue-raising measures," is also a repetition of the original draft.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I propose an amendment to No. 2. Instead of "Regional taxation and other revenue-raising measures," we only say "CREATION OF SOURCES OF REVENUE," to be harmonized or aligned with the particular provision on local autonomy on the matter of creation of sources of revenue. Likewise, that would be broader.

THE PRESIDENT: What does the committee say?

MR. ALONTO: Madam President, will the Gentleman yield?

MR. DAVIDE: Gladly.

MR. ALONTO: I would like to ask this question: Would the phrase "CREATION OF SOURCES OF

REVENUE" include the power to tax?

MR. DAVIDE: Certainly, to impose, collect and levy not only taxes but fees, charges — these are the revenue-raising measures. So the amendment will really shorten the terms and, at the same time, broaden the meaning.

MR. ALONTO: I only want to clarify the wording.

THE PRESIDENT: Will Commissioner Davide restate No. 2?

MR. DAVIDE: No. 2 should read: "CREATION OF SOURCES OF REVENUES" instead of "Regional taxation and other revenue-raising measures."

THE PRESIDENT: Is that accepted by the committee?

MR. NOLLEDO: We ask Commissioner Bernas if he is amenable to the amendment.

FR. BERNAS: It is Commissioner Davide's amendment to the committee proposal, so, if it is acceptable to the committee, I will accept it.

MR. NOLLEDO: The committee accepts the amendment.

THE PRESIDENT: The committee has accepted the amendment.

Can we just approve the proposals so that we do not go back again. Let us begin with No. 1: "Administrative organization."

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

We now go to No. 2, as amended: "CREATION OF SOURCES OF REVENUES."

Is there any objection? (Silence) The Chair hears none; the amendment, as amended, is approved.

MR. BENNAGEN: Madam President, I am a little bit worried. Is the word "CREATION" a constitutional language?

MR. DAVIDE: May I answer, Madam President?

THE PRESIDENT: The Gentleman may proceed.

MR. DAVIDE: Yes, certainly, in the same provision on local autonomy the phrase "create sources of revenue" is also used.

MR. BENNAGEN: No, only because it is so linked with sources of revenues. It sounds so much like magic, so I thought that maybe . . .

MR. MAAMBONG: Madam President, may I comment on this. Actually the phrase "other revenue-raising measures" was originally my amendment which was accepted by the committee. I just wonder, because in the first sentence we are talking of "legislative powers," and it would not look nice for the exercise of legislative power to create sources of revenue. Legislative power can tax, can have revenue-raising measures, but not create sources of revenue. It does not go with the grain of legislative powers. Also, this regional taxation and other revenue-raising measures is a normal formulation of taxation powers even in the National Internal Revenue Code.

So may I appeal to the committee to kindly consider this original proposal?

MR. NOLLEDO: The committee believes that the use of the phrase "CREATION OF SOURCES OF

REVENUES" is most appropriate, and besides, it has already been approved by the body.

THE PRESIDENT: What is the next item?

FR. BERNAS: No. 3 reads: "Ancestral domain and natural resources."

MR. RODRIGO: Madam President, just a question to clarify things for the record.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Natural resources include minerals. Of course, it is understood that this is subject to the regalian doctrine — that minerals within the autonomous regions belong to the State.

FR. BERNAS: It is subject to the provisions of this Constitution and national laws.

MR. RODRIGO: Yes, thank you.

THE PRESIDENT: Is there any objection to the third item — "Ancestral domain and natural resources"? (Silence) The Chair hears none; the amendment is approved.

FR. BERNAS: As indicated in the committee report, the next is No. 4: "PERSONAL, FAMILY AND PROPERTY RELATIONS."

MR. NOLLEDO: That is Commissioner Foz' amendment, Madam President.

FR. BERNAS: Can we have an approval on that, Madam President?

THE PRESIDENT: Is there any objection to No. 4: "PERSONAL, FAMILY AND PROPERTY RELATIONS"?

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Actually, I have no objection to it, but I would like to clarify a situation where there is a conflict between the national law — for example, the Civil Code and the Criminal Code provisions on personal and family relations — and the personal, family and property relations law obtaining in the autonomous region. Which law will govern — the law of the nation or the law applicable only to the autonomous region?

MR. ALONTO: The reason for including that particular provision in the legislative power of the autonomous region is that there is a difference between the national law and the family and personal law among the inhabitants of the autonomous region.

MR. NOLLEDO: I would like to make an answer to that good question, because I think with respect to this instance, which is No. 4, in case of conflict between national law and the law of the autonomous region on personal, family and property relations, the national law shall give way in the sense that the State is mandated to preserve and develop the cultural heritage of the region. So that is an exceptional case. I am glad that Commissioner Suarez asked that question. For example, there is a Muslim personal law now embodied in P.D. No. 1083, recognizing absolute divorce, but the Civil Code of the Philippines, RA 386, as amended, does not recognize divorce. The Muslim law in this case shall prevail and shall be considered an exception to the national law.

MR. SUAREZ: So if a region is converted into an autonomous region, the regional law covering that autonomous region will prevail over the national law, but the impact is only in personal, family and property relations?

MR. NOLLEDO: That is correct. We thank the Gentleman for asking that question.

MR. SUAREZ: Thank you.

THE PRESIDENT: Is there any other comment?

FR. BERNAS: No more, Madam President.

THE PRESIDENT: So, No. 4 will read: "PERSONAL, FAMILY AND PROPERTY RELATIONS."

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

FR. BERNAS: No. 5 reads: "Regional URBAN AND RURAL PLANNING and development."

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I comment on paragraph 5. My idea of infrastructure is first: construction of roads and houses. I think infrastructure development is covered by the words "URBAN AND RURAL PLANNING and development." So will the proponent, Commissioner Maambong, yield for the deletion of "infrastructure development" and simply retain "URBAN AND RURAL PLANNING and development"?

FR. BERNAS: We have also added the word "Regional," so "infrastructure development" and "communications" would also be included.

MR. MAAMBONG: I would just want to find out from the present proponent the formulation of No. 5.

FR. BERNAS: "Regional URBAN AND RURAL PLANNING and development."

MR. MAAMBONG: I yield to that, Madam President if that is acceptable to the committee.

FR. BERNAS: That would include infrastructure and communication development.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I have a question. Suppose a national development program were approved by Congress, would that be within the context of the national law in the introductory paragraph of this section?

MR. ALONTO: I think that would be a national law provided it does not conflict with what has been granted to the autonomous region.

MR. MONSOD: My question is this: Let us say that in the national development program there is a provision for the establishment of a copper smelter, which after studies, is determined to be located in Leyte. Would the Cordilleras have the option still to set up their own copper smelter assuming that mineral resources like copper are already available therein? We can use carbon paper as another example.

MR. BENNAGEN: I think the answer to this question is not easy. It is not in terms of "yes" or "no" because certain considerations have to be taken into account. The provision for consultation provided that there should be adequate information both at the regional and national levels to serve as the basis for deciding whether or not it is warranted to have a separate infrastructure project in any of the regions.

MR. MONSOD: In the event of conflict, which would prevail?

MR. BENNAGEN: In the event of conflict, one should examine the possible social harm that could be done either to the host region or to the country.

MR. MONSOD: Would the region have the power to incur foreign debt?

MR. BENNAGEN: I do not think so. In the contemplation of the committee, that is not taken into account.

MR. MONSOD: In that case, the ability of the region to implement the project even if it wants to would be barred or would not be possible because the national government can refuse to grant the authority to borrow.

MR. BENNAGEN: If the region does not have the capability to do it, then some negotiations have to be done through and with the central government.

MR. MONSOD: What does the Commissioner mean by "capability"? Does it refer to legal authority or viability of the region?

MR. BENNAGEN: It refers to financial capability, the capital outlay that would be needed and then the maintenance and viability eventually.

MR. MONSOD: If it is a self-sufficient project in terms of foreign exchange, can the region go ahead with it? Does it have a right to retain the foreign exchange earnings in order to pay the debt that it borrows outside the authority of the national government?

MR. BENNAGEN: Given the best available information and as long as it supports the overall regional development of the autonomous region and shall also benefit the overall stability of a country, I do not see any reason why it cannot.

MR. MONSOD: I do not know. I think we are going around the issue because it is a very important issue. If we are saying that the region can override the national decision on whether that loan or that project should be implemented, then there is a problem here.

MR. BENNAGEN: In answer to that, I think this is the appropriate time because the issue is really important in terms of balancing regional capability and regional requirements with national capability and national requirements. But this is also true for the concept of stronger decentralization and this applies both to local governments and to autonomous regions. It is rather long but I think it is instructive. Experience suggests — this is based on studies in Africa which appear in the Development Forum, a publication of the U.N. Development Program, in its issue of June-July, 1983 — that decentralization involves far more than simply declaring a policy of bottom-up decision-making in organizing the administrative structure and establishing local or district planning procedures. The ability of governments to implement decentralization programs depends on the existence of or the ability to create a variety of political, administrative, organizational and behavioral conditions and to provide sufficient resources at the local level to carry out decentralizing functions. Then it includes conditions that have to do with political and administrative structures, organizational factors, behavioral and psychological conditions and resource conditions required for decentralization.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: This is just a reflection on the subject that is being discussed. I would venture the opinion that there can be no easy answers to these now because this will involve the balancing of various interests, not just economic interest, the regalian doctrine, the meaning we are giving to the preservation of cultural heritage, and regional economic development. All of these will have to be balanced any time a problem like that comes up. So there cannot be a "yes" or "no" solution to it today in the abstract. We will have to wait for the problem to arise and for policymakers, legislators or administrative officers to be able to study all the factors that are involved in order to come to an appropriate decision. And if there is still a conflict after that, ultimately we may have to drag

the case to the Supreme Court so that the Supreme Court can give its interpretation of what the meaning is of the combination of values which we are embodying in this provision.

THE PRESIDENT: May we hear Commissioner Concepcion first.

MR. CONCEPCION: May I ask a clarificatory question.

This refers to paragraph 4: "PERSONAL, FAMILY AND PROPERTY RELATIONS" that has been adopted. It occurs to me to ask this question: Do these laws follow the inhabitants of the autonomous region outside that region, like, for instance, in Manila?

MR. NOLLEDO: Subject to jurisdictional requirements.

MR. CONCEPCION: What does the Commissioner mean by that? Let us suppose an inhabitant of an autonomous region whose laws permit bigamy, commits bigamy in Manila. He is an employee who is working in Manila. He is probably a ranking officer in his office. The wife is not an inhabitant of the autonomous region but a native of Manila, or Pangasinan or from other province.

MR. ALONTO: If he is outside the autonomous region, then he is not within the jurisdiction of the autonomous region. Hence, if he commits bigamy outside the autonomous region, then he is within the jurisdiction of the place where he has committed bigamy.

MR. CONCEPCION: But suppose, it is not a criminal case, but it is a civil case concerning contracts or qualifications to enter into contracts, like a question as to whether he is of age or not. Which laws shall apply? Shall the law of the autonomous region prevail? I am posing these questions because, as Father Bernas said correctly, there are questions that cannot be answered "yes" or "no." But the impression I got from the answers given by the committee is that the laws of the autonomous regions follow its inhabitants wherever they are. Hence, I suggest that this is a matter that should first be taken under advisement.

MR. NOLLEDO: I would like to venture an answer to that interesting question.

MR. CONCEPCION: Yes.

MR. NOLLEDO: That will involve a question of jurisdiction that will be decided by the appropriate courts.

MR. CONCEPCION: No. It is not a question of jurisdiction. The question is what law is applicable.

MR. NOLLEDO: In that case, since jurisdiction will first be considered, I think it is only when jurisdiction is finally decided that we go to the question of whether what law shall be applicable.

MR. CONCEPCION: No. There can be no question of jurisdiction so long as he is in Manila. There is jurisdiction over this person. This is a question of jurisdiction over this status which is different.

MR. NOLLEDO: Then in that case even Congress can remedy that. I will cite a specific example in relation to Article 15 of the Civil Code, if the Commissioner will permit me.

MR. CONCEPCION: Yes.

MR. NOLLEDO: Article 15 of the Civil Code says that personal law shall be binding upon citizens of the Philippines even if living abroad.

MR. CONCEPCION: That is the question.

MR. NOLLEDO: That is a provision from where we can begin discussing the question.

MR. CONCEPCION: That is the question precisely. Do we have several personal laws in the Philippines?

MR. NOLLEDO: But because they reside in the country, when we do not talk of a foreign country here and since the autonomous region is within the framework of national sovereignty, I think there is where the question of jurisdiction will come in with kindest respect to the Commissioner's opinion.

MR. CONCEPCION: No, I am trying to explain. There is a difference between jurisdiction over the person and the law applicable to that person. There may be jurisdiction over the person but the issue may be what law shall apply?

MR. NOLLEDO: If the Commissioner will permit me, I will make the problem specific. A Muslim from the autonomous region goes to Manila and commits bigamy with someone who is a resident of Manila. In other words, the second marriage was celebrated in Manila.

MR. CONCEPCION: Yes.

MR. NOLLEDO: And then, in that case, being a Muslim, he can invoke his personal law that says bigamy is legalized. He can raise that as a defense, but the jurisdiction of the court will be a court in Manila.

MR. CONCEPCION: I am sorry; I do not think that is a question of jurisdiction of the court.

MR. NOLLEDO: That is why that is not yet remedied by any exact provision of the law. We recommend that when Congress enacts the personal law that will govern the Muslims, the problem should be taken into account.

MR. CONCEPCION: That is why I asked permission to bring the matter to the attention of the Commission.

MR. NOLLEDO: I thank Commissioner Concepcion very much for his interest.

MR. CONCEPCION: Thank you, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

May I just follow up this matter because this is really what is bothering a number of lawyers — about the applicability of the autonomous region's property law relations which may be enacted by the regional legislative assembly. I would like to take up the point raised by Chief Justice Concepcion and give as an example the matter of divorce because I understand from the information which the distinguished chairman volunteered to give to the Commission, divorce is recognized in some areas in Mindanao under the autonomous region law. Now, that is against the national law, the Civil Code provisions. But the committee is conceding that that is a valid law in that autonomous region, notwithstanding the fact that it is against the national law. Is my understanding correct?

MR. NOLLEDO: Yes, Madam President.

MR. SUAREZ: But there is now a constitutional mandate that it must be within the framework of the national law. Would that divorce law, applicable and operative in that region, be still effective and valid after the ratification of this new Constitution?

MR. NOLLEDO: As I stated, it is within the intent of the committee, and I hope the Commission, that considering that we are bound to preserve and develop the customs and traditions, or the cultural heritage of the region, then the special law there must prevail over the national law.

MR. SUAREZ: So, the regional legislative assembly can enact a law allowing divorce among the inhabitants of

that autonomous region.

MR. NOLLEDO: Yes.

MR. SUAREZ: Now, suppose a husband and a wife living in that autonomous region moved to Manila and they would now like to separate and get a divorce. Can they get it from the Manila Regional Trial Court?

MR. NOLLEDO: I would recommend that when Congress enacts the appropriate legislation, that problem should be resolved in the appropriate provisions of the code.

MR. SUAREZ: Or do they have to go back to their autonomous region and apply in the special courts that would be organized?

MR. NOLLEDO: If I were Congress, I will adopt that rule that the Commissioner just stated.

MR. SUAREZ: But that is not clear under the present provision, Madam President.

MR. NOLLEDO: No. That is why we are leaving to Congress the power of legislation. And I am glad Commissioners Concepcion and Suarez asked this question because that can be resolved in a code to be enacted by Congress.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: May I draw the honorable Commissioners' attention to a paper of Atty. Perfecto V. Fernandez of the UP College of Law, published in the Philippine Law Journal Volume 55, No. 4, December 1980, which addresses this question. The paper is entitled: "Towards a Definition of National Policy on Recognition of Ethnic Law within the Philippine Legal Order."

He lists a number of categories, depending on whether there is mutual enhancement of ethnic law and national law, and where there are conflicts. He calls the situation where there is conflict between ethnic law and national law acceptable, tolerable, and unacceptable. The issue being discussed now belongs to the unacceptable sector. Let me read very briefly:

Those in whose ethnic law the norms prevailing would not only run counter to national values or objectives but would also, even within the limited sphere of operation, create substantial harm to such national values or objectives. For this sector the substantial harm to national interest that they can cause places them beyond the outer limit or boundary mentioned above. Instead of recognition, the response must be negative, ranging from denial of recognition by declaring even the rules themselves invalid or the outcome of their operation invalid or both, through suppression, through criminal prohibition of what such norms may allow or recognize.

Allow me to continue, Madam President:

It will readily be seen that the operation of ethnic law to the extent recognized or permitted as above discussed, must be founded on a concept analogous to the principle of nationality in conflicts of law situations. Here the jurisdictional foundation must be the fact of membership of the parties to the dispute to the particular cultural community whose ethnic law is involved. Unless both parties are members, the ethnic law can have no application.

Exceptions can, of course, be recognized, as we have pointed out. I do not have to read that, but the paper says that there could be exceptions.

FR. BERNAS: Madam President, I think what all of this is saying really is that once we approve these provisions,

it is a mandate for Congress to make the necessary adjustments to our existing national laws, and the extent to which Congress will be willing to make the adjustments will have to be weighed very carefully. In the matter of divorce law for instance, since we say that all these local laws will have to be within the framework of national laws, clearly this is almost a command to Congress by saying that in the implementation of this autonomous plan it will be necessary to reformulate national laws including making the necessary exceptions.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, it appears to me that there are certain issues which remain unresolved, but perhaps it would help somewhat if I will read a very short paragraph from this book: An Introduction to the Code of Muslim Personal Laws, by Esteban B. Bautista of the UP Law Center who was a member of the Presidential Commission that drafted the Code of Muslim Personal Laws, P.D. No. 1053. On the topic, "Muslim and Other Laws," he said:

Nor is it true, contrary to the now current misconception or speculation, that the Muslim will now be governed solely by their legal system and be exempt from observing other Philippine laws. Muslims will continue to be governed by the laws of general application like the Revised Penal Code, except in certain cases as to bigamy under Article 180 and other penal laws; the Land Registration Act, Public Land Act, Mining Law, Forestry Law, Fisheries Act, the Land Transportation Code, the Tax and Customs Laws, the Commercial Laws, the Civil Service Law, all public laws in fact, and many others.

The Civil Code itself will continue to be applied to Muslims, except in so far as it relates to persons and family relations and succession like inheritance. Indeed, even with respect to these matters, the Civil Code is expressly given supplementary application. Thus, if an ejectment suit should arise between two Muslims or between a Muslim and a non-Muslim, the Civil Code or any other applicable law will apply. If the dispute refers to a mining claim or to a piece of land, the Mining Law or the Land Registration Act or Public Land Act, as the case may be, will govern.

Nor need the non-Muslims in the Muslim areas fear that they will now be governed by the Muslim legal system. It will apply to them and other non-Muslims in other areas only in the limited instances provided for in the Code.

I hope this clarifies certain points, Madam President.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: May I ask the committee a few clarificatory questions, particularly on this paragraph (4), on the application of personal, family and property relations. Section 4 starts with the opening statement "Within its territorial jurisdiction," and it is my perception that the application of this personal, family, and property relations law is with respect to inhabitants of those autonomous regions.

MR. NOLLEDO: That is correct.

MR. REGALADO: Does the committee also take into account their religious affiliation? I recall that before, under RA 394, and which was subsequently extended absolute divorce was permitted, as an exception to the provisions of the Civil Code among pagans and non-Christians in non-Christian provinces. And Article 78 of the Civil Code, I recall, also provides such exceptions to the formalities and requirements for marriage and the application of Mohammedan laws between Muslims or pagans in non-Christian provinces. Those were the basic distinctions. In other words, two Christians, although living in a non-Christian province, will still be bound by the

Civil Code. It is only when they embrace the aforesaid religious affiliation, or become pagans, that they be included in the exceptions. What I would like to find out here from the committee is the basis of the application of these special laws in the autonomous regions. Will it be a question of the fact that they are residents? In other words, in effect the *lex domicilii* is coming in? Or will it be a question as to where it was contracted? In other words, the *lex contractus*? Or will it be a question of their religious affiliation, whether they are Muslims, pagans, or if they have any religion other than the Christian religion? That was the previous basic distinctions we had, based on religion under RA 394 and Article 78 of the Civil Code.

MR. ALONTO: For the committee, Madam President, I believe the philosophy on the issues involved in those laws that the Commissioner has just cited is still true in the case of the autonomous region.

MR. REGALADO: So does it follow that a Christian couple living in an autonomous region where divorce is allowed may avail of the same in the special courts therein?

MR. ALONTO: A Christian couple definitely cannot avail of such a divorce just because they are living within an autonomous region.

MR. REGALADO: I notice here, as pointed out by Chief Justice Concepcion, that we seem to have created a secondary set of conflict of laws. Whereas formerly the conflict of laws was between the laws of nations; that is, our municipal law vis-a-vis the municipal law of another foreign country, we have added a secondary stratum of a conflict of laws within the same municipal forum but only because of the fact that they come from different regions; and I am a little concerned as to how it would eventually apply in a real conflict of law situation involving other nations because here, within our own domain, we already have a conflict of laws on status, validity of marriage, validity of divorce, legitimacy and illegitimacy, and even the criminal aspects of adultery and bigamy.

MR. NOLLEDO: Madam President, this conflict of internal municipal laws can be remedied by legislation.

MR. REGALADO: So legislation will again have to take place to remedy the matter of the actual internal conflict of laws?

MR. NOLLEDO: Yes, Madam President.

MR. REGALADO: In other words, religious affiliation has nothing to do with it?

MR. NOLLEDO: I think religious affiliation shall be considered. For example, in the Civil Code we will notice that there is a provision designed to assimilate the Muslims within our legal system. We will notice that if the man is a Muslim, the Muslim law shall apply; and if the man is a Christian, then the Civil Code shall apply. And where there is a period of 20 years, then it will be the Civil Code that shall govern all inhabitants of the country. But the questions of assimilation have become complicated. And that is the reason Mr. Marcos issued P.D. No. 1083 codifying the Muslim personal laws, recognizing the practices, customs and traditions among the Muslims and allowing even divorce.

MR. REGALADO: So, now we take into account the religion of the parties or absence of religion, as in the case of pagans or animists and the matter of their actual residence, whether they are residents of an autonomous region at the time the controversy or the cause of action arose.

MR. NOLLEDO: Those factors will be considered by Congress in the passage of appropriate legislation.

Thank you.

MR. REGALADO: Thank you.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, may we go back to the other issues? I have reservation about some of the answers that were given. But it seems to me that the possible reconciliation is the next paragraph.

THE PRESIDENT: Is Commissioner Monsod referring to paragraph 5?

MR. MONSOD: Yes; it seems to me that maybe the way to resolve this is: first, that everything involving foreign relations, foreign trade, foreign debt, immigration and so on should be outside the realm of the legislative power of the autonomous region. Second, it is assumed that the national development program will include the autonomous regions and that before it is promulgated and passed upon by Congress, it would already have reconciled the regional programs of the autonomous regions.

I would rather, if I may, leave it at that, than to have in the record of this Commission the answer that would leave to autonomous regions the right to incur foreign debt or to establish a project that is not consistent with the national development program.

MR. NOLLEDO: On behalf of the committee, I think Commissioner Monsod's observations should be considered correct.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: In the deliberations of the committee, it was the understanding that those areas mentioned, like foreign relations, foreign trade, banking and international migration are not within the purview of the autonomous region. With respect to the balancing of regional development and national development, we feel that that can be done through systematic consultation.

MR. MONSOD: That is resolved in the program itself, otherwise it would not be a national development program if it has no reconciliations.

MR. BENNAGEN: Yes.

MR. MONSOD: If it has no reconciliation.

MR. BENNAGEN: Yes, we just ask the understanding of the proponent of the phrase "national development." It is the experience of so many countries, including the Philippines, that the national development plans are sometimes not sensitive to regional ecology and regional culture. The understanding is that there shall be a systematic consultation antecedent to the formulation of a development plan.

MR. MONSOD: It is not the intention of the committee, I assume, that the autonomous regions would be outside of the national development program of the country.

MR. BENNAGEN: No.

MR. MONSOD: Thank you.

MR. NOLLEDO: So, Madam President, before we proceed to the consideration of the next enumerated instance, I would like to state here for purposes of posterity that the term "property relations" should cover only relations affecting property in marriage and inheritance.

These two topics are also covered by the Muslim personal law, which is PD No. 1083.

THE PRESIDENT: We have to go back to Commissioner Bernas' tabulation.

FR. BERNAS: We are on No. 5, which should read: "Regional, URBAN AND RURAL PLANNING and development."

The observations of Commissioner Monsod were precisely on that point.

THE PRESIDENT: What does the committee say?

MR. NOLLEDO: The committee accepts the amendment.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the amendment is approved.

FR. BERNAS: No. 6 should read: "Economic, social AND TOURISM development."

Agricultural, commercial and industrial are included in "Economic."

MR. NOLLEDO: The Commissioner did not include "cultural development." Is that covered by another subsection?

FR. BERNAS: We will be coming to that later.

MR. NOLLEDO: The committee accepts the amendment, Madam President.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the amendment is approved.

FR. BERNAS: No. 7 should read: EDUCATIONAL POLICY.

THE PRESIDENT: I think it should be plural.

MR. NOLLEDO: Yes, "EDUCATIONAL POLICIES."

The committee accepts the amendment.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the amendment is approved.

FR. BERNAS: No. 8 should read: "Preservation and development of THE CULTURAL HERITAGE."

MR. NOLLEDO: The committee accepts the amendment.

BISHOP BACANI: Madam President.

THE PRESIDENT: Is there any objection from Commissioner Bacani?

BISHOP BACANI: This is just a question, Madam President, on the term "Preservation and development of THE CULTURAL HERITAGE" of the region. In view of the responses to the questions I raised this morning where it was pointed out that religion is really a very important part of the cultures of these autonomous regions, may I ask whether the term "Preservation and development of THE CULTURAL HERITAGE" of the region means that it will be a regional policy, for example, in the Muslim autonomous region, to protect the Islamic character of the region?

MR. ALONTO: Madam President, I think that is understood.

BISHOP BACANI: Yes. I would like to ask the implications of that because if it will become a regional policy to protect the Islamic character of the region will there, therefore, be the possibility of laws prohibiting, for example, missionary activity in the region as being contrary to the preservation of the Islamic character of the region?

MR. ABUBAKAR: I will answer that.

MR. ALONTO: Madam President.

THE PRESIDENT: What does Commissioner Alonto say?

MR. ALONTO: Madam President, Islam itself is a paladin of a complete and realistic religious freedom. So the protection of Islamic heritage could not include, for example, the destruction of other religious persuasions within the region.

MR. NOLLEDO: Madam President, I would like to answer that by saying that any of these powers cannot alter the provisions of this Constitution in the sense that freedom of religion must be respected within the region.

BISHOP BACANI: Yes, that is freedom to express and profess one's religion. But there have been, sad to say, also experiences apparently in Indonesia and it seems in Malaysia also, where missionary activity has really been hindered, and for a very good reason for the people in those different Islamic nations; that is, I suppose, for the preservation of the Islamic cultural heritage. And so, while people there may not be forbidden to profess their religion and worship, nevertheless, they may be hindered in the propagation of their religion. That is why I am very happy to hear Commissioner Alonto say that such a preservation will not mean the curtailment in any manner of the activities of other religions whatever they are in their attempt to propagate their faiths.

MR. ABUBAKAR: May I, Madam President, enlighten my dear friend and colleague that Islam's real meaning is "peace" — peace with your neighbor, peace with your fellowmen, peace with your countrymen. In the countries mentioned by the Commissioner where Islam prevails — Indonesia and Malaysia — there is not only freedom of religion, but even permissive governments because they permit missionary schools such as De La Salle and other institutions of Christian Catholic or non-Catholic faiths to be organized to teach and to spread their teachings among those who are enrolled in their schools. Freedom of religion and respect of one's conscience these days are equally granted to the non-Muslim population of Indonesia and Malaysia.

I have been in these two countries as the diplomatic representative of the Philippines and I never encountered any protest from the sectarian schools as to their treatment by the governments of these countries with predominantly Islamic population. That is why we do not hear of schools, Catholic as well as other sectarian schools, being closed because of the prohibition to propagate their teaching and their faiths. Islam is a tolerant religion even in Malaysia and Indonesia. There are Christians there; Catholics and people of all kinds of religious faiths, living in harmony insofar as the interaction of religious faiths and beliefs is concerned. As a matter of fact, the way I see it, it seems that we have more problems in the South than in Indonesia and Malaysia. I know because I was there; I represented our country there for many years and I was witness to the harmony between the different faiths as far as the exercise of their religious beliefs is concerned. There is freedom of thought and freedom of religion because Islam, like Christianity, values human life, and we would like to live together in complete harmony and understanding.

THE PRESIDENT: Thank you.

FR. BERNAS: Madam President, I might also add that I have a standing invitation from Commissioner Abubakar to establish an Ateneo University in his kingdom. (Laughter)

MR. ABUBAKAR: Thank you.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Yes. It is clear then that this provision does not hinder any faith at all from propagating.

THE PRESIDENT: Yes. Is there any objection to No. 8: "Preservation and development of THE CULTURAL HERITAGE"? (Silence) The Chair hears none; the amendment is approved.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: I do not know whether this question will affect the approval of this paragraph.

THE PRESIDENT: Which paragraph?

BISHOP BACANI: The same paragraph. Would this preservation and development of the cultural heritage of the region include the teaching of the Muslim religion in public schools? I am only asking the question; I am not offering any objection.

MR. ALONTO: The teaching of religion is permitted in any school in the autonomous region.

BISHOP BACANI: At present, in madrasah schools, the teaching of the Muslim religion is compulsory. With the phrase "development of THE CULTURAL HERITAGE," would it also be a mandate for the continuation of the policies in the madrasah schools at present in Region IX and XII where the teaching of religion is compulsory and there is budgetary support from the State?

MR. ALONTO: Even after the organization of the autonomous region, the State cannot spend for religion because of the fundamental provision that we stated here in this Constitution that there is a complete separation of the Church and the State.

BISHOP BACANI: Yes. I have a position paper written by a member of the Catholic Bishop's Conference of the Philippines where it is stated, and I will be glad to be corrected, that, in fact, in madrasah schools in the South the teaching of religion is compulsory and there is budgetary support for it from the government.

MR. ALONTO: There is none.

BISHOP BACANI: I am not objecting to it in the sense that it may be an exception to our rules. I do not know whether it is an exception but I would just like to know whether this will mandate or allow the continuation of such a policy.

MR. ALONTO: I am not aware of any government fund that is being spent in the madrasah because right now, the madrasahs in Mindanao are private schools.

MR. UKA: Madam President, may I make just a few statements.

THE PRESIDENT: Commissioner Uka is recognized.

MR. UKA: We should thank our brother Bishop Bacani for those clarificatory questions because such questions will make the issue clear. For his information, the madrasah schools, as Commissioner Alonto has said, are private schools and there is not a single centavo that has been spent by the government for these private schools. Madrasah schools, I repeat, are private schools. And, of course, they are free to teach their religion which is Islam.

Now, to clarify all these matters, as I said, it is a good thing Bishop Bacani brought this up. We have a Catholic Bishop in Cotabato . . .

BISHOP BACANI: Archbishop Smith?

MR. UKA: That bishop practically retired. He is known as a Muslim bishop because he is very kind to the Muslim population.

BISHOP BACANI: That is Archbishop Mongeau.

MR. UKA: Yes, Archbishop Mongeau. I think that is a French-Canadian name. He said he would rather die in the Philippines, in Maguindanao or in Cotabato City. He even put up a subdivision for Muslims.

For further information, the Qur'an is the main guide for Muslims in their daily life. There are beautiful verses in it and I will quote some which refer to Christians. It says:

Verily, you will find the Christian to be your best friends for among the Christians are priests and monks who are not proud and in their churches, the name of God is much remembered.

Another verse:

Verily, the Jews and the Christians — who believe in God and follow His commandments — shall have their reward from God.

Another one:

Let there be no compulsion in the matter of religion. My religion is mine; your religion is yours.

And these verses are all fulfilled in the Muslim countries where we find the most ancient Christian churches, more ancient or older than those in Europe that are still there because of those verses. And the Holy Prophet Muhammad said many good things about Christians, and let me tell the body that the few early followers of the Holy Prophet Muhammad would have all been killed had not the negus, that Christian emperor, welcomed and protected them in Abyssinia. Today their descendants constitute more than 50 percent of the population of Ethiopia or Abyssinia. That is why the Muslims should understand and love their Christian brothers.

Another thing, one cannot be a 100 percent Muslim or a real Muslim unless he believes in Jesus as one of the great messengers of God because that is one of the requirements of the Muslim faith. Muslims call Jesus "Nabi Isa," whose mother is Mariam (Mary). David is Daud; Abraham is Ibrahim. The Muslims' Lord's Prayer (Al-Fatihah) is very similar to the Christian Lord's Prayer; the only difference is that in the Muslims' Lord's Prayer in the Holy Qur'an (Al Fatihah) the verse "Give us this day our daily bread" is lacking. And that is perhaps the reason hot pan de sal (bread) is found mostly in the Christian areas. There are not many pan de sals in the Muslim areas because Muslims do not pray for it.

THE PRESIDENT: Is Commissioner Bacani satisfied?

BISHOP BACANI: Yes. Madam President, I just would like to put on record that I asked these questions, as I said earlier, not to oppose this provision, but to clarify its sense.

I thank very much my brother Commissioner from the Muslim areas.

THE PRESIDENT: Thank you.

What is the next paragraph?

FR. BERNAS: No. 9, and the last number, is the original No. 13 and it reads: "Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region." We have deleted No. 8 — that is included in economic development — No. 9, No. 10 and No. 12.

THE PRESIDENT: What is the comment of the committee?

MR. NOLLEDO: The committee accepts the amendments, including the deletion.

THE PRESIDENT: Is there any objection?

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Actually this is no objection, but I just want to find out from the distinguished Fr. Bernas if he still finds a compelling necessity to enumerate all of these compelling legislative powers. Would he not just put a period after the phrase legislative powers." I would like to find out the compelling necessity to make all of these enumerations on legislative powers.

FR. BERNAS: Yes.

My own reading of the situation is that we are writing a Constitution in abstracto; we are writing a Constitution in the context of the current ferments within the nation: ferments in the North and ferments in the South.

And so the enumeration becomes almost a necessity for us to be able to say to our brothers in the North and in the South: "Yes, we are listening to your aspirations, we sympathize with your desires, and we would like to express our sympathy and our appreciation of your desires by putting down something not just in general terms but also in as specific a form as possible consistent with Constitution-making."

MR. SUAREZ: I thank the Commissioner for his honest answer, but I am aware of the fact that as early as 1977, this P.D. No. 1618 enumerated the same powers, among other things, which Commissioner Bernas has stated, but it did not serve to stifle the ferments that he mentioned.

Is the Commissioner saying now that if we include the enumeration in the Constitution it might stop and bottle up the ferments that are going on?

BISHOP BACANI: Precisely, by having the Constitution explicitly recognize this, we are recognizing the very importance of these problems, so important that we deem it proper to incorporate it in the highest law of the land.

MR. SUAREZ: Thank you, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I only would like to seek some clarification after this enumeration.

REV. RIGOS: Madam President, can we please first make a vote on paragraph 9, unless the Commissioner wants to propose some amendments.

MR. DAVIDE: Yes, that would be related, Madam President, because if I am not satisfied with the answer, I may be compelled to introduce an amendment.

THE PRESIDENT: All right; we will defer the voting then. Commissioner Davide may please proceed.

MR. DAVIDE: Since we have enumerated these powers for the autonomous region, would such powers include the following: national defense and security, foreign relations or foreign trade; customs and tariff, and quarantine; currency, monetary affairs, foreign exchange, banking and quasi-banking, and external borrowing; posts and communications; air and sea transport; immigration and deportation; citizenship and naturalization; and general auditing?

MR. NOLLEDO: No, they belong to the national government.

MR. DAVIDE: I thank the Commissioner for that answer.

In other words, not even the organic act can grant legislative powers over the matters I enumerated, meaning to say, that the organic act cannot so provide.

MR. NOLLEDO: No, Madam President, it cannot.

MR. DAVIDE: Thank you very much.

MR. NOLLEDO: Those powers belong to the national government. They are exercised traditionally, constitutionally and legally by the national government.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Just for the record, I would like to ask Commissioner Bernas if the words "social development" would now encompass No. 9, which is the establishment, operation, maintenance and administration of health, welfare and other social services programs?

FR. BERNAS: Yes, Madam President. No. 9 would be encompassed both under social development and under the general welfare clause of the last number.

MS. QUESADA: Thank you, Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I just want to ask the committee if it is aware that those excluded powers are practically copied in toto from Section 4 of P.D. No. 1618. As a matter of fact, the quotation is verbatim.

MR. NOLLEDO: I would not say in toto, because No. 11 — national economic, social and educational planning — was not mentioned by Commissioner Davide, and that may fall in some respects under the powers of the regional government.

Also Section 4(5) of the same decree which says "disposition, exploration, development, exploitation or utilization of all natural resources" was not mentioned by Commissioner Davide because it is qualified by the powers of the regional government.

We thank the Commissioner for calling our attention.

MR. MAAMBONG: In that case, this needs further clarification. In other words, as far as disposition, exploration, development, exploitation or utilization of all natural resources, these are within the powers of the national government.

MR. NOLLEDO: But qualified by the provisions affecting the jurisdiction of the regional government.

MR. MAAMBONG: And the same answer is true when it comes to national economic, social and educational planning?

MR. NOLLEDO: Also by the national government but also qualified by the provisions giving legislative powers to the regional government.

MR. MAAMBONG: Thank you very much.

MR. REGALADO: Madam President, just one follow-up question. Following the Commissioner's explanation, those items enumerated under P.D. No. 1618 as not being within the exclusive power of the national government, and now slightly amended by Section 4, are the ones contemplated under Section 6 of the draft article to the effect that "All powers, functions and responsibilities not granted by this Constitution or by law to the autonomous region shall be vested in the National Government."

MR. NOLLEDO: Yes, but that provision was already deleted by the Constitutional Commission.

MR. REGALADO: So, what then would be the understanding?

MR. NOLLEDO: That is why there was really a need for Commissioner Davide to enumerate the powers that pertain to the national government.

MR. REGALADO: Yes; only for the record, but not set out in the article itself.

MR. NOLLEDO: Yes, only for posterity; for others to know; for legal purposes.

MR. REGALADO: Therefore, I suppose that for that purpose, the enumeration in the record as to what are excluded from the powers of the autonomous government should be enumerated completely as set out in P.D. No. 1618.

MR. NOLLEDO: It seems to me that the Commissioner would like to reinstate the deleted provision.

MR. REGALADO: Yes, so that things would be clear, unless the committee just wants this read into the record without the necessity of such a provision in the article because that could be a bone of contention and this could help.

MR. NOLLEDO: Would the Commissioner be satisfied, if we manifest now that the deleted provision is the intention of the committee? Instead of reinstating the deleted provision in this article that all other powers not vested in the regional government shall be deemed vested in the national government, would he be satisfied if we state that we believe in the validity of that provision?

MR. REGALADO: I would be more in favor of reinstating Section 6, just to make it specific.

MR. NOLLEDO: After we shall have approved the amendments of Commissioner Bernas, the committee will welcome the reinstatement of that provision.

REV. RIGOS: Madam President, can we now vote on paragraph 9?

THE PRESIDENT: Yes.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

REV. RIGOS: Madam President, we can now vote on the entire Section 4, as amended.

THE PRESIDENT. Will the honorable chairman read Section 4, as amended.

MR. NOLLEDO: May I request Commissioner Bernas to read Section 4, as amended?

FR. BERNAS: Section 4 will now read: "Within its territorial jurisdiction AND SUBJECT TO THE PROVISIONS OF THIS CONSTITUTION AND NATIONAL LAWS, THE ORGANIC ACT OF autonomous regions shall PROVIDE FOR legislative POWERS over:

1)

Administrative organization;

2)

CREATION OF SOURCES OF REVENUES;

3)

Ancestral domain and natural resources;

4)

PERSONAL, FAMILY AND PROPERTY RELATIONS;

5)

Regional URBAN AND RURAL PLANNING and development;

6)

Economic, social and TOURISM development;

7)

EDUCATIONAL POLICIES;

8)

Preservation and development of the CULTURAL HERITAGE; AND

9)

Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region."

VOTING

THE PRESIDENT: As many as are in favor of Section 4, as amended, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 29 votes in favor, none against and no abstention; Section 4, as amended, is approved.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: In connection with the last item of Section 4, is it understood that the term "LAW" refers to "national law"?

MR. NOLLEDO: Yes, a law passed by Congress.

MR. FOZ: Thank you.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Before we proceed to another section, in yesterday's discussion, I perceived that there were certain misconceptions brought about by a topic which we were not aware of, so I would just like to put on record

certain items which I feel will correct these misconceptions. For example, yesterday there was a statement that shari'a courts may not be part of the country's judicial system. Article 137 of the Code of Muslim Personal Laws says:

The Shari'a Courts are made part of the country's judicial system, and together with their personnel, are subject to the administrative supervision of the Supreme Court.

The second item, Madam President, is about the examination conducted in order to qualify certain lawyers to become members of the shari'a courts. I have no quarrel with that regulation of the Supreme Court; I understand the examination was really conducted, but just for the record, Articles 140 and 152 of the Code of Muslim Personal Laws provide:

Anyone, even a non-Muslim, who has the necessary qualifications may be appointed to this court.

And, finally, there was a discussion here which was not resolved whether decisions of shari'a courts may be appealable to a higher court, and I have now the provision of Article 145, which says:

The Supreme Court is given the power to review decisions of the Shari'a District Courts.

I think this will clarify the record, Madam President.

MR. NOLLEDO: Madam President, as far as the committee is concerned, we made a statement that the shari'a courts fall within the judicial system of the Philippines, and that the third statement of Commissioner Maambong was also stated by the committee in relation to an amendment introduced by Commissioner Vicente Foz.

MR. MAAMBONG: That is correct, Madam President, the discussion I referred to was from the floor, not from the committee.

MR. NOLLEDO: We thank the Commissioner.

MR. MAAMBONG: Thank you, Madam President.

REV. RIGOS: Madam President, I ask that Commissioner Regalado be recognized.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: We are through with Sections 4 and 5, Madam President. This is only an aftermath of my comment regarding Section 6 which the committee deleted, and yet it was made plain here for the record that there are certain powers which are reserved only for the national government as set out in P.D. No. 1618 and slightly amended now by the enumeration in Section 4.

THE PRESIDENT: Would the Commissioner desire to propose an amendment?

MR. REGALADO: To avoid any misunderstanding and to make things clear, I would like to propose that the original Section 6 be restored because it provides that "All powers, functions and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government."

THE PRESIDENT: What does the committee say?

MR. NOLLEDO: We agree with the amendment of Commissioner Regalado.

THE PRESIDENT: In other words, the committee agrees to return Section 6?

MR. NOLLEDO: We realize the implications of the absence of that provision, so the committee believes that Section 6 should be reinstated.

THE PRESIDENT: Is there any objection?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I was the proponent for its deletion. I really submitted and I am going to submit again that all these powers are inherent in the Congress of the Philippines. All law-making authority and all law-making power belong to the Congress of the Philippines, and insofar as the autonomous regions are concerned, these are only the exceptions. And so it is not necessary to incorporate into the Constitution that all powers other than those granted to the autonomous regions are reserved to the Congress of the Philippines. As a matter of fact, if we place it there, it would create a doubt that we are really creating another entity probably equal in rank as the Congress of the Philippines, which is not so.

MR. NOLLEDO: Madam President, may the committee react to the statement of Commissioner Davide. Had Commissioner Davide not asked me the question of whether or not the powers enumerated by him fall within the jurisdiction of the government, perhaps I would not have agreed with the amendment introduced by Commissioner Regalado, because the implication is created that if there is any power not enumerated in what he has just stated, then they may necessarily pertain to the autonomous region, which is not so.

MR. DAVIDE: Yes, I asked that question earlier, precisely to put a limit to the authority which may be authorized by the organic act. What I enumerated are the untouchables and not even the organic act can diminish these powers. That was the implication of the enumeration. In other words, neither the organic act nor any other law can touch on these areas.

MR. REGALADO: But, Madam President, Section 6, referring to all powers, functions and responsibilities which are reserved for the national government, does not refer only to congressional powers. They extend to executive powers, and all other functions and responsibilities. The purpose of restoring it is to make it clear, once and for all, that these are the limits of the powers of the autonomous government. Those not enumerated are actually to be exercised by the national government, and yet some of those exceptions under P.D. No. 1618, which were supposed to be untouchables under the then regime, were slightly qualified and modified now by the amendments of Section 4, as introduced by Commissioner Bernas. That is why I decided to ask that this Section 6 should be reinstated to avoid any possible question or controversy in the future.

MR. DAVIDE: I will withdraw my objection.

MR. NOLLEDO: We thank Commissioner Davide.

THE PRESIDENT: Is there any objection to the reinstatement of Section 6? (Silence) The Chair hears none; the amendment is approved.

REV. RIGOS: We request that Commissioner Ople be recognized.

THE PRESIDENT: Commissioner Ople is recognized.

Is it still on this section?

MR. OPLE: No, Madam President. We have a proposed last section in the Article on Local Governments — a new section. May I say first that the other proponents are: Commissioners Bennagen, Azcuna, Rama, Uka, Alonto, Abubakar and Bacani.

Under the subhead of "Other Cultural Communities," "CONGRESS MAY PROVIDE CERTAIN FORMS OF AUTONOMY AS MAY BE APPROPRIATE TO OTHER CULTURAL COMMUNITIES WITHIN THE

FRAMEWORK OF EXISTING TERRITORIAL AND POLITICAL SUBDIVISIONS, SUBJECT TO THE PROVISIONS OF THIS CONSTITUTION AND NATIONAL LAW. FOR THIS PURPOSE, IT MAY CREATE A PERMANENT COMMISSION AS AN ADVISORY BODY TO THE PRESIDENT." The reason for this amendment, Madam President, should be apparent to the Members of the Commission. This historic Article on Local Governments has by now provided for local autonomy for the entire infrastructure of local governments; it has provided for autonomy for two regions; namely, Cordillera and Muslim Mindanao, for it has tended to overlook at least three million other minority Filipinos, including non-Muslim tribes in Mindanao, estimated to number about two million, and such lesser tribes in Luzon, as the Mangyans of Mindoro, the Dumagats of the Sierra Madre, Provinces of Bulacan, Quezon, Rizal and Nueva Ecija, the Aetas of the Zambales mountains, the Tagbanuas of Palawan and numerous others.

This proposed section corrects this gap by mandating Congress to provide for the manner in which certain forms of autonomy, as may be appropriate, can be granted to these other Filipino cultural communities. It is so worded that Congress has the utmost flexibility to provide for the manner and degree of autonomy that will precisely fit the great variations in the conditions and levels of economic and social development of these smaller and widely scattered groups. Congress may or may not vest a juridical personality in any of these communities. In the main, the intent is to recognize their cultural identities and their entitlement to a measure of autonomy within the framework of the existing political subdivisions, such as provinces, cities, municipalities, and barangays. There is a proposed commission which will oversee the implementation of any future act of Congress with respect to these other cultural communities, and which probably can help codify their customary laws and traditions, recommend to the President the policies and measures that will promote their welfare and safeguard their rights, and keep Congress up to date on the progress of such measures intended to protect and to benefit them.

I ask the committee's kind consideration.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Despite the usual well-researched explanation of Commissioner Ople, may I assume a contrary position? First, in my humble submission, this provision will unduly, if not capriciously, amplify the provision on local autonomy. We will be creating more autonomous regions if we adopt this provision.

Secondly, the creation of a permanent commission has no place in the Article on Autonomous Regions. I have a similar proposal that will be submitted for consideration to the Committee on General Provisions. This proposal speaks of a permanent commission as an advisory body to the President. I think this should be tackled by the Committee on General Provisions.

Thirdly, the Mangyans of Mindoro, the Dumagats of Sierra Madre, the Aetas of Zambales, and other minorities in various provinces have not supplicated or beseeched us for the creation of autonomous regions. It is only the people of Cordillera and the Bangsa Moro who pounded on our doors asking for the creation of autonomous regions.

So, Madam President, I object to the Ople proposal because it will pave the way for more autonomous regions and thereby open the doors for federalism in this country.

MR. OPLE: May I respond briefly, Madam President?

I do not think the fears of Commissioner Sarmiento are well-founded with respect to the risk that in adopting this section, we may be paving the way for more autonomous regions. That would have been better justified if we

adhere to the original formulation of this section, but as revised and as now being presented, we will see that in this case, Congress may provide — it is a permissive statement — certain forms of autonomy which are quite clearly unrelated to the powers that we have just given to the two autonomous regions, as may be appropriate to other cultural communities and within the framework of existing territorial and political subdivisions.

As I said earlier, Congress will be in the best position to determine what forms and manner and degrees of autonomy will be appropriate, according to the great diversity of the conditions and existing levels of development of all of these different tribes.

May I point out that very recently, in Mindanao, I think in Zamboanga City, the representatives of the non-Muslim tribes claiming to represent more than two million non-Christian and non-Muslim tribes in Mindanao gathered in order to communicate to the national government their own demand for appropriate attention. I am not saying that they are making demands of the same magnitude as the Muslims in Mindanao or the people in the Cordillera, but we are not mandating Congress to extend such forms of autonomy to these people. We are merely empowering Congress; we are, in effect, saying that Congress may, according to the terms that it would like to set, grant certain forms of autonomy where in its considered opinion certain tribes other than non-Christian and non-Muslim tribes and non-Cordillera tribes had attained to a standard where they could be considered for some form of autonomy.

MR. DAVIDE: Madam President.

MR. NOLLEDO: Madam President.

THE PRESIDENT: In view of the objection of Commissioner Sarmiento, the Chair resolves to defer consideration of this particular amendment when we have more of our colleagues present for the next session.

ADJOURNMENT OF SESSION

THE PRESIDENT: The session is adjourned until tomorrow at eleven o'clock in the morning.

It was 5:55 p.m.

[*] Appeared after the roll call

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