

R.C.C. NO. 98

VOL. V, October 02, 1986

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1490e868568b/>

Thursday, October 2, 1986

OPENING OF SESSION

At 10:17 a.m., the Honorable Jose C. Colayco, opened the session.

THE PRESIDING OFFICER (Mr. Colayco): The session is called to order.

NATIONAL ANTHEM

THE PRESIDING OFFICER (Mr. Colayco): Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDING OFFICER (Mr. Colayco): Everybody will please remain standing for the Prayer to be led by the Honorable Crispino M. de Castro.

Everybody remained standing for the Prayer.

PRAYER

MR. DE CASTRO: Heavenly Father, as we approach the end of our labors in the making of a new Constitution for our people, we see how You have guided our minds and our hearts.

We saw how You enlightened us and opened our eyes and minds when we tried to understand and finally understood the ideals and proposals that differed from our own.

We saw how You allowed the light of reason to shine on our discussions and debates, thus, we were able to exchange ideas, thoughts and arguments with truth, clarity and sincerity.

For all these, we thank You, O Lord.

We pray that You continue to give us a little more strength, a little more wisdom and understanding to discern what is right and what is wrong; what is good and what is bad; what is true and what is not true; that our Constitution shall be truly reflective of the ideals of our people.

We pray for humility when our resolutions are favored, and allow us to accept defeat graciously when our resolutions are voted down.

Guide us, Almighty God, in these final days, to make this Constitution truly democratic and acceptable to our people.

These we ask of You, through our Lord. Amen.

ROLL CALL

THE PRESIDING OFFICER (Mr. Colayco): 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

Calderon Absent Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Absent

Davide Present Sarmiento Present

Foz Present Suarez Present

Garcia Present [*] Sumulong Present

Gascon Present Tadeo Present

Guingona Present Tan Present

Jamir Present Tingson Present [*]

Laurel Absent Treñas Present

Lerum Present Uka Present

Maambong Present Villacorta Present [*]

Monsod

Present [*]

The Secretariat is in receipt of official advice of absence of Commissioner Villegas.

The President is present.

The roll call shows 32 Members responded to the call.

THE PRESIDING OFFICER (Mr. Colayco): The Chair declares the presence of a quorum.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. RAMA: Mr. Presiding Officer, I move that we approve the Journal of yesterday's session.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: Mr. Presiding Officer, I move that we proceed to the Reference of Business.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (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 Petition and Communications, the Presiding Officer making the corresponding references:

PETITION

Petition of the Committee on the Judiciary signed by its Chairman, the Honorable Roberto R. Concepcion, earnestly requesting the Constitutional Commission to reopen Sections 3, 10, 11 and 14 of the Article on the Judiciary.

(Petition No. 4 — Constitutional Commission of 1986)

To the Steering Committee.

COMMUNICATIONS

Letter from Governor Ismael D. Sueno, Koronadal, South Cotabato, transmitting a resolution adopted by the OIC Provincial Governor and OIC Municipal Mayors of the Province of South Cotabato, seeking the creation of four (4) congressional districts for South Cotabato.

(Communication No. 1031 — Constitutional Commission of 1986)

To the Committee on the Legislative.

Letter from OIC Governor Bantas W. Suanding of the Province of Benguet, transmitting Resolution No. 75 of the Sangguniang Bayan of Mankayan, Benguet, informing the Constitutional Commission that said municipality is strongly endorsing a regionalization of the Cordilleras as far as administration is concerned and not as an autonomous region.

(Communication No. 1032 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Two letters from the Honorable Anacleto D. Badoy, Jr., Commission on Elections, Manila, to wit:

(1) Letter seeking to extend separate representation in the Lower House of Congress to regional center cities whose charters prohibit their residents from voting in the elections for provincial elective officials.

(Communication No. 1033 — Constitutional Commission of 1986)

To the Committee on the Legislative.

(2) Letter seeking the deletion of the phrase "concurrence of the President" in Section 2 (4) of Resolution No. 11 of the Constitutional Commission of 1986, incorporating in the Constitution the provisions on the Commission on Elections, and to add the following new paragraph to Section 12 of said resolution, to wit: "Funds appropriated for the operating expenses of the Commission shall likewise be released automatically upon certification of the chairman of the Commissioner."

(Communication No. 1034 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from Mr. Johnny Midnight of 821 J.P. Rizal Makati, Metro Manila, urging the Constitutional Commission to incorporate in the Constitution an article that would clearly define what and who is a Filipino.

(Communication No. 1035 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from the North Philippine Union Mission of Seventh-day Adventists, Donada Street, Pasay City, signed by Espiritu B. Guadiz, objecting to any constitutional provision allowing the teaching of religion in public schools.

(Communication No. 1036 — Constitutional Commission of 1986)

To the Committee on Human Resources.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: I move that we vote on Third Reading Proposed Resolution No. 534 on the Article on Social Justice, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION
A SEPARATE ARTICLE ON SOCIAL JUSTICE.

Printed copies of Proposed Resolution No. 534 were distributed on August 13, 1986 pursuant to Section 28, Rule VI of the Rules of the Constitutional Commission.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

SUSPENSION OF SESSION

MR. SUAREZ: May we ask that we suspend the session for about five minutes in order that we can discuss this matter with the Floor Leader.

THE PRESIDING OFFICER (Mr. Colayco): The session is suspended.

It was 10:26 a.m.

RESUMPTION OF SESSION

At 10:30 a.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed.

MR. RAMA: Mr. Presiding Officer, in view of the fact that some of the members of the Committee on Social Justice asked for deferment of the vote on Third Reading on Proposed Resolution No. 534 on the Article on Social Justice, I withdraw my motion to vote on the same.

THE PRESIDING OFFICER (Mr. Colayco): All right. The motion has been withdrawn.

CONSIDERATION OF PROPOSED RESOLUTION NO. 540

(Article on Transitory Provisions)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: Mr. Presiding Officer, I move that we continue the consideration of Proposed Resolution No. 540 on the Article on Transitory Provisions. We are now in the period of amendments.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none; the motion is approved.

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

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. SUAREZ: May we request the Chair to ask the other members of the committee to join us so we can start.

THE PRESIDING OFFICER (Mr. Colayco): Will the other members of the committee please join Commissioner Suarez in front.

MR. SUAREZ: Thank you.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

The substitute amendment for Section 3, a copy of which was given to the chairman of the committee, reads as follows: "UNLESS THEY ARE INCONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION, ALL EXISTING LAWS SHALL REMAIN VALID, AND ALL EXISTING DECREES, EXECUTIVE ORDERS, PROCLAMATIONS, LETTERS OF INSTRUCTIONS AND OTHER EXECUTIVE ISSUANCES SHALL REMAIN OPERATIVE, UNTIL SUBSEQUENTLY AMENDED, MODIFIED, REPEALED OR REVOKED.

THE PRESIDING OFFICER (Mr. Colayco): What does the committee say?

MR. MAAMBONG: Mr. Presiding Officer, would Commissioner Davide accept a modification by putting a period (.) after the word "REPEALED," then eliminating the words "by Congress"?

MR. DAVIDE "By Congress."

MR. MAAMBONG: As originally formulated we will just put a period (.) after the word "repealed" on the last sentence and eliminate the words "by Congress."

In this manner, Mr. Presiding Officer, it is open-ended. The President, while she still has the power and before the Congress convenes, can repeal all laws or decrees and after Congress shall have convened, we shall eliminate the words "by Congress." The President, in accordance with our discussion yesterday, can still continue to revoke executive orders, proclamations and other issuances or letters of instruction or memorandum/circulars for that matter. So it will solve the whole problem, Madam President.

MR. DAVIDE: Mr. Presiding Officer, the Commissioner mentioned the word "revoked" or in other words, granting the authority to revoke. That revocation insofar as the President is concerned may be done by the incumbent President, not necessarily because of her legislative powers, but because of her executive powers.

MR. MAAMBONG: That is correct, Mr. Presiding Officer.

MR. DAVIDE: So if that is the intention of the committee, I would only seek one modification.

MR. MAAMBONG: Yes, Mr. Presiding Officer.

MR. DAVIDE: We delete the word "or" after "modified" and put a comma (,) after "repeal" then add the following: "OR REVOKED."

MR. MAAMBONG: I will present that to our chairman for comment, Mr. Presiding Officer.

MR. SUAREZ: In other words, Mr. Presiding Officer, Commissioner Davide would like that the words "amended, modified, repealed" remain and the word "REVOKED" would be added.

MR. DAVIDE: "OR REVOKED."

MR. SUAREZ: We have no objection to that, Mr. Presiding Officer. We accept it.

MR. DAVIDE: Thank you.

MR. SUAREZ: So, as formulated, this Section 3 would now read as follows; "ALL EXISTING LAWS, DECREES, EXECUTIVE ORDERS, PROCLAMATIONS, LETTERS OF INSTRUCTIONS AND OTHER EXECUTIVE ISSUANCES NOT INCONSISTENT WITH THIS CONSTITUTION SHALL REMAIN OPERATIVE UNTIL AMENDED, MODIFIED, REPEALED OR REVOKED."

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rodrigo is recognized.

MR. RODRIGO: As chairman of the Committee on Style, may I propound some questions. Is there a difference between "AMENDED" and "MODIFIED"? Can we delete "MODIFIED" because I do not see how a law can be modified without amending it?

MR. SUAREZ: We will have no objection to that, Mr. Presiding Officer.

MR. RODRIGO: Therefore, we will now delete the word "MODIFIED."

MR. SUAREZ: Yes, so that it will read: "AMENDED, REPEALED OR REVOKED."

MR. RODRIGO: Is there also a difference between "REPEALED" and "REVOKED"? How about deleting "REVOKED," because it seems that "REPEALED" and "REVOKED" are the same?

MR. SUAREZ: No, not necessarily.

MR. MAAMBONG: Mr. Presiding Officer, we accepted the amendment of Commissioner Davide by putting in the word "REVOKED" because that refers to the action of the President, not of the legislative body. The President can revoke executive orders and proclamations on her own authority, that is why we accepted the word "REVOKED," Mr. Presiding Officer.

MR. RODRIGO: All right, therefore, there is a difference now between "REPEALED" and "REVOKED."

MR. MAAMBONG: Yes, Mr. Presiding Officer.

MR. RODRIGO: Thank you.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Padilla is recognized.

MR. PADILLA: Mr. Presiding Officer, the new formulation does not make a clear distinction between statutory laws and presidential issuances. I proposed an amendment yesterday for two sentences instead of one, as it appears on page 58 of the Journal, and Commissioner Davide accepted the suggestion for two sentences. That was the status yesterday, but there is again only one sentence practically reembodying Section 3 of the committee report with only some changes as to the terms "valid," "operative" and "revoked." So I would request the committee to divide that proposed section into two sentences for greater clarity.

MR. MAAMBONG: Mr. Presiding Officer, the committee yesterday admitted that there is some distinction between laws, which Commissioner Padilla mentioned, and acts, commonwealth acts, republic acts and decrees. And this distinction has already been clearly set out in the proper provision in the judiciary. I am referring to Section 3, subsections (2) and (3).

Regarding the jurisdiction of the Supreme Court as to the constitutionality of these executive orders and decrees as distinguished from laws, we have subsections (2) and (3). The committee feels that we do not have to make that further distinction in this particular article because we are only dealing here with transitory provisions. While we admit that the observation of the honorable Vice-President is well-taken, we maintain that this distinction has already been clearly embodied in the provision of the judicial department which we have adverted to precisely because of the distinction made by the honorable Vice-President on the floor.

THE PRESIDING OFFICER (Mr. Colayco): Does the Vice-President have a definite proposal to amend?

MR. PADILLA: May I just react to the statement of Commissioner Maambong?

THE PRESIDING OFFICER (Mr. Colayco): The Vice-President may proceed.

MR. PADILLA: My proposal is to divide that section into two sentences but what I have this morning is a one-sentence formulation.

THE PRESIDING OFFICER (Mr. Colayco): In other words, Commissioner Padilla has a proposal to amend the accepted amendment.

MR. PADILLA: Yes, Mr. Presiding Officer, to divide it into two sentences.

THE PRESIDING OFFICER (Mr. Colayco): Will a suspension of the session help to finally reconcile the

different amendments?

MR. MAAMBONG: Mr. Presiding Officer, for the record, there was an amendment of Commissioner Davide which the committee has accepted. The proposed amendment, in concept at least, of the honorable Vice-President was not accepted by the committee. Perhaps, this is now the issue which should be brought to the body once the Vice-President is through.

MR. REGALADO: Mr. Presiding Officer, point of information.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Regalado is recognized.

MR. REGALADO: Before the matter is brought to the body, Commissioner Maambong has adverted to the provisions of Section 3, subsections (2) and (3) of the Article on the Judiciary wherein originally, there was a distinction between constitutionality of treaties, international agreements or laws in relation to subsection (3) which refers to presidential decrees and proclamations. In the first, the number of votes required is majority plus one and in the second, the number votes required is only a majority. But in a special meeting of the Judiciary Committee, which incidentally is the subject of the petition for reopening that was referred to the Steering Committee this morning, the Committee on the Judiciary had proposed that there would be no distinction in effect, because subsections (2) and (3) of Section 3 of the Article on the Judiciary have been merged into a proposed amendment into just one, that is, Section 2 wherein there would be no distinction in the matter of the votes required with respect to treaties, international or executive agreements or laws or presidential decrees, proclamations, orders and so forth.

MR. MAAMBONG: Mr. Presiding Officer, with that pronouncement, why should we now make a distinction in the Article on Transitory Provisions when in the substance of the Constitution itself, there is no more distinction. So the committee would appeal sincerely to the honorable Vice-President to accept the formulation of Commissioner Davide which will cover all situations.

MR. REGALADO: Of course, Mr. Presiding Officer, this is still subject to two contingencies: First, the reopening of these sections upon the suspension of the rules; and second, whether this would be acceptable to the Commission. I will furnish Commissioner Maambong with a copy of this proposed amendment by the said committee.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Vice-President is recognized.

MR. PADILLA: If the distinctions mentioned by Commissioner Maambong appear in the Article on the Judiciary, then there is reason to maintain that distinction even in the Article on Transitory Provisions. If there will be no further distinction as far as the invalidation by the Supreme Court when the existing law or the presidential decree is in violation of the Constitution which is the inherent power of this judiciary to so declare, then again there is that reason to make a distinction. If that distinction is admitted, then why do we not just divide it into two sentences?

Mr. Presiding Officer, I would like to have a clean copy of the proposed section in one sentence so that I can make the suggestion, with particular wordings, adopting as much as possible the one-consolidated sentence section into two sentences.

SUSPENSION OF SESSION

MR. RAMA: Mr. Presiding Officer, I ask that we suspend the session.

THE PRESIDING OFFICER (Mr. Colayco): The session is suspended.

It was 10:46 a.m.

RESUMPTION OF SESSION

At 10:49 a.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed.

MR. BENGZON: May we ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. DAVIDE: Since the committee has already accepted my earlier amendment in addition to the committee amendment and personally believing that with the insertion of my amendment which is to add the word "REVOKED," the matters raised by the Vice-President are already well taken care of. I am not inclined to accept the proposal of the Vice-President if it is intended to be an amendment to my amendment, and I would rather submit the matter to the body.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Vice-President is recognized.

MR. PADILLA: My only regret is that I was the one who proposed an amendment by dividing the section from one sentence to two sentences so that a distinction between existing laws and presidential decrees, et cetera may be made. My amendment was practically accepted by Commissioner Davide, although he tried to reformulate it. What I regret is that as the original proponent of these two sentences for this Section 3, I have been completely disregarded and it now appears as the sole amendment of Commissioner Davide and that I am now reamending his amendment.

With that on the record, Mr. Presiding Officer, if the committee feels it and if that formulation has been circulated to all the Members and the majority is satisfied therewith, I will not be pressing this point further. But I do not like that what happened yesterday should happen again in the future by disregarding the original proponent of the amendment. My main purpose only is to distinguish between existing laws and presidential decrees, which I have already explained on many occasions.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, the committee would just like to indicate that when Commissioner Davide presented to us the formulation, it was with the assurance of Commissioner Davide that it was precisely to reflect the intention of the honorable Vice-President. The honorable Vice-President was never left out in this formulation and it was the intention of the honorable Vice-President, in fact, which was controlling when Commissioner Davide presented the formulation that was accepted by the committee.

THE PRESIDING OFFICER (Mr. Colayco): All right. I think the matter has been explained already.

MR. PADILLA: But the fact remains, Mr. Presiding Officer, that I was not consulted in this last formulation

which was accepted by the committee.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Chair declares the matter closed. Let us have the new formulation.

The committee is ordered to read the new formulation.

MR. DAVIDE: Just for the record, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. DAVIDE: Yes, Mr. Presiding Officer, the formulation I presented was not accepted eventually by the committee. The committee only recommended the deletion of the words "BY CONGRESS," and I inserted only the words "OR REVOKED" after "REPEALED," The entire proposal I submitted was not taken into account, as a matter of fact.

THE PRESIDING OFFICER (Mr. Colayco): All right. The matter is closed.

MR. RAMA: Mr. Presiding Officer, the issue has been sufficiently debated and clarified.

THE PRESIDING OFFICER (Mr. Colayco): Will the committee read again the new formulation.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

As reformulated, Section 3 would now read: "ALL EXISTING LAWS, DECREES, EXECUTIVE ORDERS PROCLAMATIONS, LETTERS OF INSTRUCTIONS AND OTHER EXECUTIVE ISSUANCES NOT INCONSISTENT WITH THIS CONSTITUTION SHALL REMAIN OPERATIVE UNTIL AMENDED, REPEALED, OR REVOKED."

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection?

MR. PADILLA: I would like to register my objection.

THE PRESIDING OFFICER (Mr. Colayco): All right, let the objection of Commissioner Padilla be so recorded.

Is there any objection? (Silence) The Chair hears none; Section 3, as amended, is approved.

The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Regalado be recognized to amend Section 4.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Mr. Presiding Officer.

On Section 4, I propose some amendments by addition and deletion. With respect to the first sentence, I propose that after the word "law" on the third line, there be a period (.). Thus, it will read: "All courts existing at the time of the ratification of this Constitution shall continue to exercise their jurisdiction, until otherwise provided by law." The reason why I ask for the deletion of the phrase "in accordance with the Constitution" is that it is already understood. Otherwise, if that law is not in accordance with the Constitution, it would be unconstitutional.

On the succeeding phrase "and all cases pending in said courts shall be heard, tried, and determined under the laws then in force," I also ask for its deletion because it is not necessary and whether substantive or procedural, there will be no retroactive effect. It will always be based on the laws in force at the time when the case was filed

and was pending.

With respect to the next sentence, I propose an amendment which is to add a comma (,) after "Court" and the words "JUDICIARY ACTS AND PROCEDURAL LAWS" so that it will read: "The provisions of the existing Rules of Court, JUDICIARY ACTS AND PROCEDURAL LAWS . . ." My reason for the amendment is that we still have two judiciary acts in force — Judiciary Act of 1948, Republic Act No. 296, and BP Blg. 129 otherwise known as the Judiciary Reorganization Act.

On the penultimate line, in accordance with the way it has been already raised by Commissioner Rodrigo, we shall delete the word "modify" after the word "amended" because they both mean the same. So that the second sentence will read: "The provisions of the existing Rules of Court, JUDICIARY ACTS AND PROCEDURAL LAWS not inconsistent with this Constitution shall remain operative unless amended or repealed by the Supreme Court or Congress."

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. DE CASTRO: Before we proceed to Section 4 and because we have not yet finally decided on Section 3, we should go to a voting because there is an objection by Commissioner Padilla. I have to abstain in here because the position of Commissioner Padilla was not taken in the record as part of the discussion on Section 3. In fact, he originally reformulated this.

I move that there must be a voting on Section 3, before we proceed to Section 4.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: I suggest that we vote by raising of hands, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Colayco): As many as are in favor, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (One Member raised his hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 26 votes in favor, 1 against and 1 abstention; Section 3 is approved.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I raise a simple parliamentary inquiry?

THE PRESIDING OFFICER (Mr. Colayco): The Gentleman may proceed.

MR. SARMIENTO: Yesterday, we agreed that before amendments, there shall be interpellations. But right now, we are amending all the sections without interpellations. So may we be guided on this point, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, there was a lengthy period of interpellations yesterday concerning precisely Section 3. As the result of that interpellations, a new formulation was arrived at and that is the situation. May I move that we now go to Section 4 and ask the committee's response to the amendment proposed by Commissioner Regalado.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

MR. SUAREZ: I think the point raised by Commissioner Sarmiento is to the effect that before we move on to the period of amendments, insofar as Section 4 is concerned, if there are any interpellators who may have registered, we go on with the interpellations first, then go on to the period of amendments.

MR. RAMA: Point of information, Mr. Presiding Officer. Only Commissioner Regalado registered to amend Section 4 but he opted to present his amendment rather than interpellate.

MR. REGALADO: Mr. Presiding Officer, the reason why I did not interpellate anymore is that I compliment the committee. Each of their formulations is already followed by an explanation of their position, thereby eliminating the need of interpellation. They explained it with an explanatory note at the end of every section and that is very commendable.

MR. SUAREZ: Thank you.

THE PRESIDING OFFICER (Mr. Colayco): Is there anyone who has registered for interpellation?

MR. RAMA: Only Commissioner Regalado has registered to interpellate and he opted not to interpellate anymore. So, Mr. Presiding Officer, may I ask the position of the committee on the amendment presented by Commissioner Regalado.

MR. SUAREZ: May we request Commissioner Regalado to restate his amendment?

MR. REGALADO: I propose an amendment by deletion and addition; the first sentence will now read: "ALL COURTS EXISTING AT THE TIME OF THE RATIFICATION OF THIS CONSTITUTION SHALL CONTINUE TO EXERCISE THEIR JURISDICTION, UNTIL OTHERWISE PROVIDED BY LAW."

MR. SUAREZ: We have no objection to that, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Regalado may proceed.

MR. REGALADO: The second sentence will read: "THE PROVISIONS OF THE EXISTING RULES OF COURT, JUDICIARY ACTS AND PROCEDURAL LAWS NOT INCONSISTENT WITH THIS CONSTITUTION SHALL REMAIN OPERATIVE UNLESS AMENDED OR REPEALED BY THE SUPREME COURT OR CONGRESS."

MR. SUAREZ: May we just find out from Commissioner Regalado what he means by "procedural laws"? Are they not included within the phrase "existing Rules of Court"?

MR. REGALADO: No, Mr. Presiding Officer. There are many other procedural laws aside from those in the Rules of Court.

MR. SUAREZ: Will Commissioner Regalado give an example?

MR. REGALADO: For example, certain provisions of the old Code of Civil Procedures are still in force. In the Civil Code, there are procedural rules with respect to ejectment proceedings which are often mistaken as

substantive provisions but actually are procedural provisions.

MR. SUAREZ: And the Gentleman feels that they are not embraced within the revised Rules of Court?

MR. REGALADO: They are not, Mr. Presiding Officer, they are complementary and supplementary rules of procedure.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: Would Commissioner Regalado perhaps consider if we will just use the word "PROCEDURAL LAWS" to cover the Rules of Court, the judiciary acts and the procedural laws which are all in the Civil Code?

MR. REGALADO: Yes, Mr. Presiding Officer, except, however, that in the case of the judiciary acts that we have, RA 296 and BP Blg. 129, they are partly substantive and partly procedural.

MR. MAAMBONG: Yes, I understand that, Mr. Presiding Officer. The Judiciary Act of 1948 which is partly substantive and partly procedural has been, in fact, amended by so many presidential decrees.

MR. REGALADO: Yes, Mr. Presiding Officer.

MR. MAAMBONG: I was just asking if perhaps we could encompass the whole three aspects of procedure — Rules of Court, judiciary acts and procedural laws — but if the Gentleman really feels that we should separate these, we just have to consider and apply it, Mr. Presiding Officer.

MR. REGALADO: Yes, Mr. Presiding Officer, because after all, there are only three classifications: the Rules of Court, which are basically procedural; the judiciary acts which are in part substantive and in part procedural; and the other strictly procedural laws.

MR. SUAREZ: Yes.

MR. REGALADO: So, there will be no misconception as to what we are referring to.

MR. SUAREZ: The committee accepts the proposal of Commissioner Regalado.

THE PRESIDING OFFICER (Mr. Colayco): So the committee accepts the first sentence and the second sentence of the proposed amendment of Commissioner Regalado?

MR. SUAREZ: Yes, Mr. Presiding Officer.

May I be allowed to restate the amended proposal submitted by the Honorable Regalado?

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez may proceed.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

It will now read: "Section 4. ALL COURTS EXISTING AT THE TIME OF THE RATIFICATION OF THIS CONSTITUTION SHALL CONTINUE TO EXERCISE THEIR JURISDICTION, UNTIL OTHERWISE PROVIDED BY LAW. THE PROVISIONS OF THE EXISTING RULES OF COURT, JUDICIARY ACTS AND PROCEDURAL LAWS NOT INCONSISTENT WITH THIS CONSTITUTION SHALL REMAIN OPERATIVE UNLESS AMENDED OR REPEALED BY THE SUPREME COURT OR CONGRESS."

MR. MAAMBONG: Mr. Presiding Officer, may we just insert a comma (,) after "judiciary acts," in line with the uniform procedure adopted by the Committee on Style, adopting the British Rule as suggested by Commissioner

Rodrigo.

THE PRESIDING OFFICER (Mr. Colayco): What does Commissioner Regalado say?

MR. REGALADO: Yes, Mr. Presiding Officer, that is acceptable. Of course, with the words "JUDICIARY ACTS" not necessarily capitalized but used in its generic sense.

MR. SUAREZ: In its generic sense.

THE PRESIDING OFFICER (Mr. Colayco): All right.

MR. OPLE: Just one point of clarification.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Ople is recognized.

MR. OPLE: May I ask the committee whether procedural law includes also the rules and regulations of the quasi-judicial bodies, the examples of which are the Securities and Exchange Commission, the National Labor Commission, et cetera?

MR. SUAREZ: Yes, Mr. Presiding Officer, because in most instances, on those quasi-judicial tribunals or bodies, the Rules of Court are adopted in a suppletory character.

MR. OPLE: Thank you very much, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer, I seem to recall that we have approved a provision where rules of procedure adopted by quasi-judicial bodies shall remain operative until they are revoked by the Supreme Court.

In the case of the present formulation of the Constitution, there is already a participation on the part of the Supreme Court, therefore, the answer of the chairman would be very valid.

Thank you.

THE PRESIDING OFFICER (Mr. Colayco): All right. We shall now approve the Regalado amendment.

MR. SUAREZ: I suggest that we put it to a vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Is the body ready to vote?

MR. RAMA: Yes, Mr. Presiding Officer.

MR. SUAREZ: May I read the second sentence for further clarification, Mr. Presiding Officer?

It will read: "THE PROVISIONS OF THE EXISTING RULES OF COURT, JUDICIARY ACTS, AND PROCEDURAL LAWS NOT INCONSISTENT WITH THIS CONSTITUTION SHALL REMAIN OPERATIVE UNLESS AMENDED OR REPEALED BY THE SUPREME COURT OR CONGRESS."

VOTING

THE PRESIDING OFFICER (Mr. Colayco): 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 27 votes in favor and none against; Section 4, as amended, is approved.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: On Section 5, I ask that Commissioner Nollado be recognized to interpellate or amend.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Mr. Presiding Officer.

I would like to interpellate the chairman and members of the committee regarding Section 5 of the committee report which reads:

The Supreme Court must, within six months after the ratification of this Constitution, adopt a systematic plan to expedite the decision or resolution of the entire backlog of cases or matters filed with the Supreme Court or the lower courts prior to the effectivity of this Constitution.

Mr. Presiding Officer, we will notice that in the Article on the Judiciary, we provided for certain periods within which courts of different levels may decide cases. Am I right if I say that those periods will not apply until there is a systematic plan to expedite the decision of pending cases?

MR. REGALADO: Mr. Presiding Officer, may I state a point of information.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Regalado is recognized.

MR. REGALADO: In the last special meeting of the Committee on the Judiciary, there was a change in the proposed amendments to the Article on Transitory Provisions. The one that was read by Commissioner Nollado was already set aside and, instead, the committee proposed two different sections by way of proposed amendments to the Article on Transitory Provisions and that is also involved in the current petition for reopening of the voting on the Article on Judiciary. If we can have a suspension of the session, I can bring this to the attention of the committee and Commissioner Nollado so that they will know what the Committee on the Judiciary had proposed in lieu of the section that was set out here in the report of the committee and which is now being questioned by Commissioner Nollado.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

MR. SUAREZ: May we just clarify from Commissioner Regalado the parliamentary situation? Is he saying that we should defer consideration of Section 5 in order that we can accommodate the discussion in the reopening of the Article on Judiciary on those two sections?

MR. REGALADO: I think so, Mr. Presiding Officer, because what we have incorporated in the proposed article was the old proposed amendment of the committee.

MR. SUAREZ: On the strength of the representations made by the Commissioner Regalado, Mr. Presiding Officer, may we ask that we defer the discussion on Section 5 under the proposed Article on Transitory Provisions until after the Committee on the Judiciary shall have properly ventilated these new two sections.

MR. REGALADO: And for said purpose, Mr. Presiding Officer, I am also furnishing the committee with a copy of those new proposed amendments.

MR. SUAREZ: Thank you. So we can circularized those two proposed amendments to the honorable Members of the Commission.

THE PRESIDING OFFICER (Mr. Colayco): What does the Floor Leader say?

MR. RAMA: May I ask the chairman to make a proper motion for the deferment of consideration of Section 5?

MR. SUAREZ: Mr. Presiding Officer, the committee formally submits a motion for the deferment of consideration of Section 5 originally proposed by the Committee on Transitory Provisions, until after we shall have threshed out those two proposed sections which are the substituted Section 4 and Section 5 presented by the Committee on the Judiciary.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection to the motion to defer consideration of Section 5? (Silence) The Chair hears none; the motion is approved.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, we will now go to Section 6. I ask that Commissioner Nolleto be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Nolleto is recognized.

MR. NOLLETO: Thank you, Mr. Presiding Officer, I will ask my questions later because I think the committee is conferring with the other members.

SUSPENSION OF SESSION

MR. SUAREZ: Mr. Presiding Officer, may we ask for suspension of the session.

THE PRESIDING OFFICER (Mr. Colayco): The session is suspended.

It was 11:14 a.m.

RESUMPTION OF SESSION

At 11:16 a.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed.

MR. SUAREZ: Mr. Presiding Officer, may I be recognized?

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

Upon the suggestion of the members of the Judiciary Committee, Mr. Presiding Officer, may we ask that the discussions on Section 5 of the Article on Transitory Provisions be deferred for one hour because they are thinking of submitting the proposed amendments to the Article on the Judiciary which was discussed in the committee, together with an amendment on Section 5 of the Article on Transitory Provisions.

So with the permission of the body and the kind indulgence of the Floor Leader, I move that we discuss Section 6 without prejudice to calling a debate and discussion on Section 5 after one hour.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: Mr. Presiding Officer, may I ask that Commissioner Nolleto be recognized on Section 6.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Nolleto is recognized.

MR. NOLLETO: Thank you, Mr. Presiding Officer.

I would like to pose some questions to the chairman and members of the committee regarding Section 6, which reads:

The incumbent members of the judiciary shall continue in office until they reach the age of seventy years or removed for cause.

Mr. Presiding Officer, we will remember that in the 1973 Constitution there is a similar provision but it is qualified by the fact that while the members of the judiciary shall continue in office until they reach the required age, the incumbent President then, Mr. Marcos, was given the constitutional power to terminate the term or tenure of the members of the judiciary. But here, we put aside upon reaching the age of seventy years or are removed for cause. The committee cited the case of Delos Santos vs. Mallare which seems to be a ruling that is basically applicable to members of the civil service. When we talk of "or removed for cause," who will remove them?

MR. SUAREZ: That depends on the category. In the case of the Supreme Court, it will have to be by the process of impeachment. In the case of the ordinary members of the judiciary, those belonging to the inferior courts of the Supreme Court, then it must be the Supreme Court under the new Constitution, in an administrative way.

MR. NOLLEDO: And so, we do not contemplate removal of the members of the judiciary by the incumbent President?

MR. SUAREZ: That is not envisioned within this Section 6, Mr. Presiding Officer.

MR. OPLE: Mr. Presiding Officer.

MR. NOLLEDO: So it is very clear that removal is only by way of what is provided in this 1986 Constitution.

MR. SUAREZ: That is right, Mr. Presiding Officer. Precisely, there is also a provision in the Article on the Judiciary which says that this matter of reorganization is practically or substantially prohibited after the ratification of the new Constitution.

MR. NOLLEDO: So I understand it right, therefore, that with respect to the members of the judiciary who are removable by impeachment, the grounds which will constitute for cause are those found in the provisions on the Article on the Accountability of Public Officers which refer to instances under which impeachment may lie.

MR. SUAREZ: The Commissioner is right.

MR. OPLE: Mr. Presiding Officer, will Commissioner Nolleto yield?

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Nolleto may yield if he so desires.

MR. NOLLEDO: Willingly, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Ople may proceed.

MR. OPLE: Thank you very much.

Does the Commissioner not think we should take cognizance of a well-known fact that the members of the judiciary have submitted their individual resignations and that these resignations are, I think, addressed to the appointing power, the President of the Philippines? The acceptance of such resignations leads to removal from office without having to last out the period of service till the age of 70 years. Is that not right, Mr. Presiding Officer?

MR. NOLLEDO: Yes, but the situation that the Commissioner contemplates should no longer apply to the members of the Supreme Court and of the old Intermediate Appellate Court, now known as the Court of Appeals,

because these courts have already been reorganized and appointments have already been made by the President. In fact, my next question is based on the Commissioner's first question.

MR. OPLE: I see. The point is, I wanted to know whether or not this provision intends to protect the security of tenure of all other members of the judiciary, other than those courts already reorganized, Mr. Presiding Officer.

MR. NOLLEDO: My understanding, Mr. Presiding Officer, is that this provision should apply only to those who are now actually holding the positions in the judiciary upon the ratification of the Constitution. I do not know the sense of the committee. I think the Commissioner's second question should be directed to the chairman or any member of the committee.

MR. OPLE: Yes. With the indulgence of Commissioner Nollado, may I direct that question to the committee.

MR. SUAREZ: May we have the question again?

MR. OPLE: Will this provision protect the security of tenure of all other members of the judiciary in the case of courts not yet reorganized, such as the Supreme Court and the Court of Appeals?

MR. SUAREZ: I think it will apply; it will continue.

MR. OPLE: It will apply.

Will that mean that under this provision the President of the Philippines may no longer accept the long pending resignations of members of the judiciary under this classification?

MR. SUAREZ: If it is a question of voluntary resignation, I do not see any reason why the President would be suffering from any impediment in accepting such resignation. But if we are thinking in terms of compulsory resignation or advanced resignation, probably it would be a different legal ball game, Mr. Presiding Officer.

MR. OPLE: These resignations were submitted in accordance with a policy to cover this transition period and these, I think, were inspired by that policy since judges wanted to defer to what they thought was the policy under the revolutionary government.

MR. SUAREZ: Mr. Presiding Officer, may we clear up this thing, because I suppose the Commissioner has in mind the provision of Section 2, Article III, Proclamation No. 3, which I would like to read for the information of all concerned:

All elective and appointive officials and employees under the 1973 Constitution shall continue in office until otherwise provided by proclamation or executive order or upon the designation or appointment and qualification of their successors, if such is made within a period of one year from February 25, 1986.

This period is up to February 25, 1987. I suppose the examples the Commissioner has in mind would fall within this Section 2. The impact of Section 6 would be to abrogate this particular Section 2, Article III, Proclamation No. 3, insofar as members of the judiciary are concerned.

MR. OPLE: Since this Constitution will supersede Proclamation No. 3.

MR. SUAREZ: Yes.

MR. OPLE: So that upon the adoption of this Constitution and this Transitory Provisions come into full force and effect, then the security of tenure of the judiciary as a whole will be protected by this provision?

MR. SUAREZ: Their tenure will be insured and will be protected under Section 6 as proposed, Mr. Presiding Officer.

MR. OPLE: Thank you very much, Mr. Presiding Officer.

MR. NOLLEDO: One last question from the chairman of the committee. Based on his answers to the interpellations of Commissioner Ople, the phrase "incumbent members of the judiciary" refers to those incumbent upon ratification of this Constitution?

MR. SUAREZ: Definitely, Mr. Presiding Officer.

MR. NOLLEDO: I thank the Commissioner very much. Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Bengzon be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bengzon is recognized.

MR. BENGZON: This is still on Section 6. When the Commissioner says, "the members of the judiciary shall continue in office until they reach the age of seventy or removed for cause," did he have in mind within this context a situation where a justice, for example, becomes physically or mentally incapacitated?

MR. SUAREZ: That is exactly what we were discussing with the Honorable Maambong, because the phrase "incapacitated for cause" was omitted here and we are thinking of submitting that as a committee amendment to include these three conditions: (1) upon reaching the age of seventy years; (2) incapacitated; and (3) removal for cause.

MR. BENGZON: If the Commissioner is thinking of including the word "incapacitated" because he is travelling along my line of thought now, I guess we would have to read into the record the meaning of "incapacitated" because a person can be physically incapacitated but not mentally, and he can still exercise his functions as a Supreme Court justice. So perhaps at the proper time the committee could read into the record the scope of the word "incapacitated."

MR. SUAREZ: I think that is already reflected in the discussions on the Article on the Judiciary when we inserted that same clause in that article, Mr. Presiding Officer.

MR. BENGZON: So would the Commissioner be willing to accept an amendment later on to include "incapacitated"?

MR. SUAREZ: I think that is already reflected in the discussions on the Article on the Judiciary when we inserted that same clause in that article, Mr. Presiding Officer.

MR. BENGZON: So would the Commissioner be willing to accept an amendment later on to include "incapacitated"?

MR. SUAREZ: Yes, Mr. Presiding Officer.

MR. BENGZON: Thank you.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: As a matter of fact, upon suggestion of our chairman, for purposes of orderly discussion, Section 6 would now read: "The incumbent members of the judiciary shall continue in office until they reach the age of seventy years, or BECOME INCAPACITATED TO DISCHARGE THE DUTIES OF THEIR OFFICE, or removed for cause." This would be the starting point of our discussion.

MR. AZCUNA: Mr. Presiding Officer.

MR. RAMA: Commissioner Azcuna would like to be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Azcuna is recognized.

MR. AZCUNA: May I just ask a point of clarification from the committee. Would this Section 6 forbid the members of the judiciary from resigning before they reach the age of seventy years or shall they continue in office until they reach seventy years, become incapacitated or removed for cause?

MR. SUAREZ: No, Mr. Presiding Officer, it will not preclude a voluntary resignation on the part of the members of the judiciary, this provision notwithstanding.

MR. AZCUNA: I see. And may I just suggest that we put "ARE" before "REMOVED" for grammatical consideration.

MR. SUAREZ: "OR ARE REMOVED FOR CAUSE." We will have no objection to that during the period of amendment.

MR. AZCUNA: I thank the Commissioner.

MR. MAAMBONG: On that score, the exact wording of Section 6 is not actually "shall continue in office." It is: "shall hold office." Probably, that will be subject to an amendment later on.

MR. RAMA: There are no more speakers on this subject, Mr. Presiding Officer. So I ask that the text of Section 6 be read for voting, subject to style by the Style Committee.

SUSPENSION OF SESSION

MR. SUAREZ: May we ask for a suspension so we can reformulate the entire Section 6.

THE PRESIDING OFFICER (Mr. Colayco): The session is suspended.

It was 11:30 a.m.

RESUMPTION OF SESSION

At 11:31 a.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed. Commissioner Suarez may now proceed.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

So may we now read Section 6, as reformulated: "The incumbent members of the judiciary shall continue in office until they reach the age of seventy years, or BECOME INCAPACITATED TO DISCHARGE THE DUTIES OF THEIR OFFICE, or ARE removed for cause."

MR. RAMA: Before we vote, I ask that Commissioner Tingson be recognized for a parliamentary inquiry.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Tingson is recognized.

MR. TINGSON: Mr. Presiding Officer, this is for my own satisfaction, and I am really curious to know. I know that in the United States, there does not seem to be any age limit; the members of the Supreme Court can continue in office. We also know that in the tropical part of the world to which we belong, our life expectancy here is much shorter. I think it is only 56 years here in the Philippines. I am just wondering because a justice of the Supreme Court is one who really works hard mentally.

Is there any study at all that would convince us that the age of seventy years is still an age at which the average

justice could work mentally with full capacity of judgment?

MR. SUAREZ: Mr. Presiding Officer, although this is not a discussion on the Article on the Judiciary, nonetheless, we remember that during those deliberations, two schools of thought emerged — one advocating that the retirement age should be reduced to only 65 in order to give the members of the judiciary more time for relaxation during the rest of their lifetime and the other, that the retirement age would be set, as finally approved, at age 70 because we really need mature members in the judiciary and their productive capacity is not impaired at all between the ages of 65 and 70. Those were the reasons that were adduced in favor of supporting the provision in the Article on the Judiciary, setting the period of retirement at age 70. And this is reflected in Section 10 of the Article on the Judiciary, Mr. Presiding Officer.

MR. TINGSON: Mr. Presiding Officer, I remember about 25 years ago, there was a member of the Supreme Court who had to be carried on his wheelchair to the Supreme Court to participate in the adjudication of cases.

MR. SUAREZ: Justice Perfecto?

MR. TINGSON: Yes, Gregorio Perfecto.

MR. SUAREZ: But his mind was mentally sharp, Mr. Presiding Officer.

MR. TINGSON: I see. But is there a way whereby somebody stays in the court? If I remember right, Justice Perfecto had some political reasons to stay there, and his verdicts were all politically oriented. If I remember, I had some of them. Is Justice Perfecto's case within our impeachment processes?

MR. SUAREZ: That is right, Mr. Presiding Officer.

MR. TINGSON: I thank the Commissioner very much.

MR. SUAREZ: I also thank the Commissioner.

MR. RAMA: Mr. Presiding Officer, there are no more registered speakers. I ask that we take a vote on Section 6, as read and amended.

VOTING

THE PRESIDING OFFICER (Mr. Colayco): As many as are in favor of Section 6, as reformulated, 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 33 votes in favor and none against; Section 6 is approved.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Romulo be recognized regarding Section 7.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Romulo is recognized.

MR. ROMULO: With regard to Sections 7 and 8, I would like to propose to the committee and to this body that we defer consideration of both sections because of their transcendental importance and, therefore, the need for a full-blown discussion and debate on these. And so as not to delay the very good progress of our discussions on this article, I am proposing that we take up Sections 7 and 8 towards the end. As I understand it, we have not only other sections now in the report but also new sections proposed by different Commissioners.

MR. SUAREZ: So the commissioner is suggesting that Sections 7 and 8 should be discussed together at the end of the Article on Transitory Provisions.

MR. ROMULO: Yes, but not necessarily together.

MR. SUAREZ: One after the other.

MR. ROMULO: Yes, one after the other.

THE PRESIDING OFFICER (Mr. Colayco): Is the Commissioner putting that in the form of a motion?

MR. ROMULO: Yes, I am putting it in the form of a motion, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bengzon is recognized.

MR. BENGZON: May I amend the motion that the matter be specifically done, let us say, tomorrow because it might happen that this afternoon — of course, I am being optimistic — we will finish the entire article. So if we could be specific, we can request that Section 7 be debated upon tomorrow.

MR. ROMULO: I have no objection to that.

MR. MAAMBONG: I just want to call the attention of the Chair that we have certain sections which are in the nature of addendum, and these might delay consideration. But anyway that is subject to such contingency, of course.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Nollado be recognized to amend Section 8.

MR. SUAREZ: No, we are deferring Section 8. We will now proceed to Section 9.

MR. RAMA: Yes, interpellation on Section 9.

MR. BENGZON: I had a conference with Commissioner de Castro and we want to put this in the record just to make sure. It is not the intent of the committee that Section 9 includes the reservists in the armed forces — people like us who took ROTC and who, like in my case, took an advanced course, so we are in the reserved army. We are not included in this group that will be dismantled.

MR. SUAREZ: No, I do not think we are.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. DE CASTRO: This proposal was introduced by Commissioners Sarmiento, Nollado and Guingona.

During the committee hearings, it was understood that when we refer to "armed groups," we mean the private armies of the warlords. And when we talk of "paramilitary forces," we refer to CHDFs. I would request the three Commissioners to confirm what I stated — that the term "armed groups" refers to the warlords' armed groups and "paramilitary forces" refers to CHDF.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Mr. Presiding Officer.

The phrase "armed groups" refers to private armies and armed fanatical groups and "paramilitary forces" refers to the CHDFs. But at the proper time, I will ask for the exclusion of the words "outside of the regular police and armed forces." May I briefly explain, Mr. Presiding Officer.

The civilian home defense forces under P.D. No. 1016, as amended by P.D. No. 1242 and Executive Order 1012, have been formally integrated into the military establishment by utilizing them in the integrated security defense plan. The Ministry of National Defense has operational control over the screening, appointment and training of the civilian home defense forces. Since it is contemplated that the term "paramilitary forces" refers to CHDFs, then the words "outside of the regular police and armed forces" should be deleted.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rodrigo is recognized.

MR. RODRIGO: Just a question for minor clarification.

MR. BENGZON: I believe I still have the floor, Mr. Presiding Officer. I have not finished with my interpellation.

MR. RODRIGO: I thought I was recognized.

THE PRESIDING OFFICER (Mr. Colayco): Does Commissioner Bengzon not want to yield in the meantime?

MR. BENGZON: Is it in connection with Section 9?

MR. RODRIGO: Yes, with Section 9.

MR. BENGZON: I still have some questions on Section 9.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may proceed.

MR. BENGZON: As a follow up of what Commissioner Sarmiento said on these paramilitary forces, if we are going to delete the words "outside the regular police and armed forces," would that not complicate matters? I ask because there are paramilitary forces within the regular police and armed forces.

MR. SARMIENTO: May I just answer that query, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner will please proceed.

MR. SARMIENTO: The only paramilitary force that is legally recognized is the civilian home defense force. That is why I mentioned the three laws, including the executive order, which formally established and recognized the existence of the civilian home defense force. That is the paramilitary force that is existing within the Armed Forces of the Philippines.

MR. BENGZON: If it is the intent of this Commission not to include the CHDFs, therefore, we want them eliminated. Can we not, therefore, say that under Section 3 of the Transitory Provisions, those particular decrees to which the Commissioner referred are inconsistent with the Constitution and therefore they are automatically revoked?

MR. SARMIENTO: Yes. I agree with the Commissioner, Mr. Presiding Officer, but still I will insist that within the contemplation of Section 9, CHDFs should be included.

MR. BENGZON: That is correct.

THE PRESIDING OFFICER (Mr. Colayco): Just a minute. Does the committee authorize Commissioner Sarmiento to answer the questions addressed to it?

MR. SARMIENTO: Mr. Presiding Officer, I was authorized by Commissioner de Castro.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may proceed.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. DE CASTRO: We had a committee hearing on this subject matter, and we called the representatives of the armed forces and they failed to show us the decrees and executive orders mentioned by the Honorable Sarmiento. I have no chance to have a look at it but the representatives of the armed forces were objecting to the removal of the CHDFs for the simple reason that they do not have the sufficient strength at this time to completely combat insurgency. However, they promised that there will be a thorough screening and training of the CHDFs. That is the very reason, Mr. Presiding Officer, that I insisted during the discussion on the armed forces provision that the CHDF may be used by the armed forces for internal security as may be provided by law, but then it was only insinuated in paragraph 17 of the armed forces provision. Nevertheless, I leave it to the body to determine whether we may still need the CHDF under the conditions I already stated.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Ople may state his parliamentary question first.

MR. OPLE: Thank you.

Mr. Presiding Officer, it is less of a parliamentary inquiry than a question. I wonder whether or not it is seasonable and useful for me to anticipate an amendment that I have submitted to the committee and to the proponent and which I believe has been circulated among the Members of the Commission. It merely states: "THE STATE SHALL NOT COUNTENANCE PRIVATE ARMIES IN ANY GUISE. ALL PARAMILITARY FORCES NOT CONSISTENT WITH THE CITIZEN ARMED FORCE, ESTABLISHED IN THIS CONSTITUTION, SHALL BE DISSOLVED FORTHWITH."

So in this case, Mr. Presiding Officer, the intention is really to make private armies completely unconscionable from a constitutional point of view. What about the CHDF? I think we give the President of the Philippines, as Commander-in-Chief, the flexibility to decide whether the civilian home defense force is consistent with the citizen armed force established in this Constitution. And therefore, if it is inconsistent, then the CHDF can be immediately abolished as well. But I think the focus of this proposal is on the private armies which are the coercive apparatus of regional and political warlords.

I have reliable information from Minister Juan Ponce Enrile himself that there is a brisk trade in the arms business now because many politicians are preparing for the coming elections that will be authorized under this Constitution. And I think this will be seen as a very sensitive constitutional response to this problem that is widely perceived to have attained critical proportions now.

Mr. Presiding Officer, we are still in a period of interpellation I assume, but I thought that this Could be a useful input at this time and I will wait for the period of amendments.

Thank you.

THE PRESIDING OFFICER (Mr. Colayco): Is Commissioner Bengzon through?

MR. BENGZON: I have one final question.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner will please proceed.

MR. BENGZON: This provision does not give a time frame within which these groups are going to be dismantled. Is the Commissioner not open to an amendment later on that would give the armed forces or the government a time frame within which to dismantle all of these groups?

MR. DE CASTRO: Mr. Presiding Officer, upon ratification of this Constitution, the armed groups mentioned in

Section 9 will be dismantled. That is the time frame.

MR. BENGZON: Does the Commissioner mean they are automatically dismantled?

MR. DE CASTRO: Yes, automatically dismantled because the Constitution said so — upon ratification.

MR. BENGZON: All right. But then I am looking at it from the operational point of view. If they are automatically dismantled that is in theory, but we know these people would still be running around with all their arms. So there must be a period within which the armed forces should be able to collect all of these arms. And if the armed forces fail to implement this within a specific period, what sanctions do we have?

MR. DE CASTRO: The implementation is quite easy if, as stated by the armed forces, the CHDFs are under their control.

MR. BENGZON: Yes, I have no problem with the CHDFs.

MR. DE CASTRO: It is simple to dismantle them if they are really under control. If not, even if we put a time frame, it would be difficult to disarm them.

MR. BENGZON: No, I am more worried about the private armies, and I am particularly referring to my region, Region 1. As everybody knows, we have a lot of groups there with their respective private armies. I am sure that the politicians there now on both sides of the fence are building up their hardware. So these are the people that I am worried about, particularly in my region.

So there has to be a campaign for the collection of all of these arms for the actual dismantling of these groups, because as we know they have their own warehouses.

MR. DE CASTRO: Mr. Presiding Officer, may I ask for a two-minute suspension so we can confer with Commissioner Sarmiento.

THE PRESIDING OFFICER (Mr. Colayco): Before we proceed to that, the Chair notices that there are three or four Commissioners on the floor. The Chair will first call on Commissioner Natividad, then Commissioner Maambong who has been raising his arm for about a minute now, then Commissioner Rodrigo, Commissioner Quesada and Commissioner Alonto, in that order. Commissioner Sarmiento will be the last.

MR. NATIVIDAD: Just one question, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Natividad will now proceed.

MR. NATIVIDAD: Will Commissioner de Castro yield to just one question?

MR. DE CASTRO: Willingly, Mr. Presiding Officer.

MR. NATIVIDAD: The way Section 9 is worded, the private security industry, as authorized by law or by a republic act of which I was the author, might fall within the provisions of this section which says:

All armed groups and paramilitary forces now existing outside of the regular police and armed forces shall be dismantled.

Way back in the days of Congress, I authored this law authorizing the private security industry. And this is a vital security measure because the armed forces cannot serve as security guards for banks, industrial firms, and private individuals. This is a multimillion industry nowadays, Mr. Presiding Officer. Without amending Section 9, it will outlaw the private security industry which has been authorized by law and being supervised by SUSIA of the Philippine Constabulary.

MR. DE CASTRO: I recognize that, that is why I am asking for a two-minute suspension so that we can reformulate this provision. In fact, that was a question in our committee hearing. I think the Commissioner is a member of the General Provisions Committee and he even questioned that.

So I would request a suspension of about a few minutes so that we can reformulate this to exclude the security guards who are authorized by law and who are under the supervision of the Philippine Constabulary.

MR. NATIVIDAD: Yes. I just want to make sure. These are all authorized by law, so I just want to make sure that they are not outlawed as a consequence of the provision of Section 9.

MR. DE CASTRO: We will have to reformulate Section 9.

MR. NATIVIDAD: Thank you, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

After him, we will have a two-minute suspension. Then the Chair will call on Commissioners Rodrigo, Quesada, Alonto and Sarmiento, in that order.

MR. RAMA: Mr. Presiding Officer, Commissioner Quesada has priority because she is the only one registered ahead of everybody.

MR. MAAMBONG: Mr. Presiding Officer, I have already been recognized. May I proceed now.

THE PRESIDING OFFICER (Mr. Colayco): Can Commissioner Quesada wait after the suspension? The Commissioner may proceed.

MR. MAAMBONG: Mr. Presiding Officer, I think it would be helpful to the Commission to give a very brief background of this provision which is causing us a lot of aggravation.

In the first place, this provision was only inherited by the Committee on Transitory Provisions from the Committee on General Provisions. When it came to us from the General Provisions, the formulation was this: "All armed groups and paramilitary forces now existing contrary to law shall be dismantled."

Immediately, it drew a very adverse reaction in the Committee on Transitory Provisions because we very strongly felt that if it is contrary to law, why should we have it dismantled by a constitutional provision? It should be dismantled right then and there, without need of any constitutional provision. So we came up with this formulation that instead of saying "existing contrary to law," we say "existing outside of the regular police and armed forces," to make it a little bit more palatable without offending the sensibilities of the Committee on General Provisions. So that is the situation.

Mention has been made by Commissioner Sarmiento of Executive Order 1012. If this administration really wants to dismantle the CHDF, then that executive order under the provision which we just approved can very well be superseded tomorrow by President Aquino. This is just a background information. I am not for or in favor of this. I am not carrying a brief for the CHDF, although I would like to indicate for the record that I feel very badly that in my town, Asturias, Cebu, when the firearms of the CHDF were withdrawn, CHDFs were picked up and killed one by one.

Just recently, two of my barangay captains were executed right in the presence of their families in broad daylight, just because they were former members of the CHDF and their firearms had been already withdrawn.

Thank you.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Colayco): The Chair will declare a suspension of two minutes, as requested by Commissioner de Castro.

It was 11:57 a.m.

RESUMPTION OF SESSION

At 12:08 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner de Castro be recognized to restate the reformulated provision.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. ALONTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Alonto is recognized.

MR. ALONTO: Mr. Presiding Officer, will we have a chance to ask some questions of the members of the committee?

THE PRESIDING OFFICER (Mr. Colayco): I suppose so.

MR. ALONTO: Then for that matter, I would like to ask the distinguished members of the committee some clarificatory questions.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Quesada is number one in the list, so Commissioner Alonto will follow.

Does Commissioner Quesada want to say something?

MR. DE CASTRO: Mr. Presiding Officer, we have a new formulation and I request that we first read this new formulation before we entertain interpellations based on this new formulation.

REV. RIGOS: Mr. Presiding Officer.

MS. QUESADA: Mr. Presiding Officer, we would like to hear the new formulation.

MR. ALONTO: Before we hear that reformulation, we would like to ask some clarificatory questions because otherwise even that reformulation, as we have been listening to it a while ago, would not completely include those concepts, for which we have doubt.

THE PRESIDING OFFICER (Mr. Colayco): Yes, but the new formulation will be read and will be subject to debate and comments by the Commissioners. So we will have all the time necessary for that.

Commissioner Rigos is recognized.

REV. RIGOS: Mr. Presiding Officer, the reformulated provision is based on the caucus the committee had with some Commissioners during the suspension of the session. I wish that the committee had waited for the interpellations of the other Commissioners before coming up with a reformulated provision.

THE PRESIDING OFFICER (Mr. Colayco): What does the committee say?

MR. DE CASTRO: Mr. Presiding Officer, we made a new formulation. To limit the interpellations and discussions, I request that the discussions and interpellations be on the new formulation rather than on the old one; otherwise, it will be a very wide subject matter for interpellation.

THE PRESIDING OFFICER (Mr. Colayco): Yes. Commissioners Rigos and Alonto will be given opportunity.

REV. RIGOS: I submit, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro will please proceed.

MR. DE CASTRO: Mr. Presiding Officer, after conferring with Commissioners Sarmiento, Ople, Quesada, Bengzon and the others here, we came out with the following new formulation for Section 9: "THE STATE SHALL NOT COUNTENANCE PRIVATE ARMIES, PARAMILITARY FORCES AND OTHER ARMED GROUPS IN ANY GUISE. ALL SUCH FORCES SHALL BE DISSOLVED FORTHWITH." Before we go into interpellations, I would request Commissioner Sarmiento first and then Commissioner Ople to explain the meaning of private armies, paramilitary forces and other groups.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Mr. Presiding Officer.

MR. ALONTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Just a minute. We have not yet recognized Commissioner Alonto. The suggestion of the committee was for the Chair to request Commissioner Sarmiento, and afterwards Commissioner Ople, to explain the rationale of the new formulation. After they are through the Chair will call on the Members of the Commission whose names have been listed and which I have already called before the reformulation.

Commissioner Sarmiento will please proceed.

MR. SARMIENTO: Thank you, Mr. Presiding Officer.

Private armies refer to the armed forces of political warlords. These are the private armies of big politicians. Armed groups refer to fanatical groups that are armed, like the Tadtad group which is known for chopping the bodies of their victims into pieces and eating them. We have also the Lost Command. This unit made into the headlines following its alleged involvement in the massacre of 45 men, women and children in a village of Las Navas, Northern Samar way back in 1982. We have the Rock Christ and Likus-Likos which operate in Zamboanga del Sur — Misamis Occidental area. Then we have the Philippine Liberation Organization which was responsible for the killing of a prominent newsman in Davao City September last year and reportedly composed of MNLF surrenderees. We have other religious fanatical groups all existing in Mindanao, such as the Ilaga, the Four K's, the Patiks of Bukidnon et cetera. The term "paramilitary forces" refers to the Civilian Home Defense Forces.

That is my explanation, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bengzon is recognized.

MR. BENGZON: May I add that there are other nameless armed groups which carry on such similar activities.

MR. DE CASTRO: Other armed groups are included, Mr. Presiding Officer.

MR. SARMIENTO: May I yield to Commissioner Ople, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Ople may proceed for not more than three minutes.

MR. OPLE: Thank you, Mr. Presiding Officer, for the reminder.

Yes, in addition to those groups enumerated by Commissioner Sarmiento in the brief conference we had with the committee, General de Castro also added other paramilitary forces like the NPA, the MNLF and so on, although the committee was confronted with the problem of whether the Constitution can dissolve forthwith other such groups.

I think here in the reformulation, we focus on the private armies and other paramilitary forces which threaten the freedom and the quality of the elections that will be held under this Constitution. According to the consensus of that meeting, the CHDF is included under the heading "Paramilitary Forces," although Commissioner de Castro had conveyed the concern of the AFP that there may be no equivalent forces in some areas to take the place of the CHDF if there is a decision taken here to dissolve them forthwith. However, I think President Aquino, as the Commander-in-Chief, will have the leeway to determine to what extent the CHDF may be inconsistent with this Constitution. If they are inconsistent, then they should be dissolved forthwith. I think the CHDF does represent an imminent threat to the life and liberty of many of our people in the countryside.

They are not trained to perform a military task.

We all know that they tend to be recruited from among the unemployed in the locality. They are paid a pittance of P120, if they are lucky to get this and they are not given the requisite training so that they become responsible representatives of a government in much of the countryside. Therefore, I think the Commander-in-Chief and the AFP are not denied the chance to formulate a new policy, but if the CHDFs must be maintained at all, they should no longer be just an appurtenance to the armed forces but should be absorbed by the armed forces subject, of course, to their own budgetary limitations. So they become responsible members of the armed forces and not just an appurtenance to the AFP which may fall under AFP control, but are not given the same equality with other legitimate members of the Armed Forces of the Philippines. And in this case, I think, as General de Castro will affirm, quality might be better than quantity. We may have fewer of these forces but if they are incorporated into the Armed Forces of the Philippines, then they rise to equality with the other members of the AFP, instead of being second class military forces usually looked down upon even by ordinary soldiers and, because of lack of discipline, are generally regarded as an undesirable appurtenance.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Thank you very much.

MR. DE CASTRO: Just one sentence, Mr. Presiding Officer, to allay the fears of Commissioner Ople.

When we speak of private armies, paramilitary forces and other armed groups, this does not include the private security agencies established by law and now supervised by the Philippine Constabulary.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. RAMA: Commissioner Quesada is listed as the first to speak.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Quesada will please proceed.

MS. QUESADA: Thank you, Mr. Presiding Officer.

Actually, the previous speakers have already highlighted the importance of having a provision on the dismantling of these paramilitary and armed groups, nonetheless, I would like to put on record that this is one particular issue which the people in our public hearings have so popularly supported. As a matter of fact, I just came from Misamis Oriental and Bukidnon. This was an issue which the people I talked with were awaiting to be provided in our Constitution. And so I am fully in support of this provision, in behalf of the people in Mindanao who have experiences with these armed groups, like the famous Tadtad and the CHDF, where the farmers particularly were tortured, maimed and killed. Instead of defending the rights of these poor people, the CHDFs in the guise of counterinsurgency proved to be trigger-happy, gun-toting sidekicks of the regular armed forces, as well as some influential political figures.

So I support this particular provision.

MR. RAMA: May I ask that Commissioner Alonto be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Alonto has the floor.

MR. ALONTO: Thank you, Mr. Presiding Officer.

As a citizen of this country, I am completely in accord with the provisions of Section 9 because I know by experience that the general cause of the deterioration of the peace and order situation during the past few years was the organization of these so-called private armies and several armed groups which are a product of the disintegration of the Filipino society. Mr. Presiding Officer, first of all, I would like to say that the explanation of what a private army should be should not be limited only to the private armies organized by politicians for election purposes but should include all armed groups controlled by either political, social, economic and religious groups in this country.

If we will study the cause of the armed struggle particularly of the Muslims in this country, we will be able to find out that the real and immediate cause of this is the organization of a special force by the Marcos government itself to invade Malaysia in order to grab the portion of Sabah State which belongs to the Malaysian Federation. This was a special force organized by the government itself and trained to create disorder in Sabah so that the Philippines could justifiably intervene. This organization of a special force by the government itself resulted into what is now called the "Jabiddah Massacre," which led to the death of young Muslims who, upon learning that they were going to be utilized to invade Sabah, refused to do it.

So because of that refusal, the government or whatever section of the government responsible for that massacred those Muslim recruits. One of them miraculously was able to escape and was able to divulge what happened, which resulted in a congressional investigation. The Muslim representatives in Congress then, together with the late Sen. Ninoy Aquino, seriously investigated the matter. The late Senator became a wanted man by the regime existing at that time.

THE PRESIDING OFFICER (Mr. Colayco): The time of the Commissioner is up.

MR. ALONTO: And because of this "Jabiddah Massacre," the Muslims naturally became apprehensive and started to organize themselves to defend their basic human rights.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner has already been given a one-minute extension. Does he want a last extension of one minute?

MR. ALONTO: Mr. Presiding Officer, I am doing this for the purpose of informing this august body of the rationale why we should outlaw all these armed groups. This is the very reason why there are so many groups that arose in Mindanao and whose activities became so extreme that they became not an instrument for preventing

social disorder but an instrument for social disorder, like for example, those fanatical organizations which have been created primarily for self-protection and protection of their legitimate ideals. Similarly, in the case of the Muslim elements in this country, there arose the organization of the so-called Moro National Liberation Front.

THE PRESIDING OFFICER (Mr. Colayco): Thank you very much, Commissioner Alonto.

May we have the next speaker.

MR. ALONTO: Mr. Presiding Officer, I request that my time be extended just to ask two questions of the committee.

THE PRESIDING OFFICER (Mr. Colayco): All right, the Chair will give the Commissioner another chance after the turn of Commissioner Rigos, who has been waiting for some time now.

Commissioner Rigos may please proceed.

REV. RIGOS: Mr. Presiding Officer, I believe Commissioner Ople has already hinted that the New People's Army is included in the committee's interpretation of the words "armed groups." I request the committee to confirm that interpretation specially because in the long list of armed groups mentioned by Commissioner Sarmiento, he did not mention the NPA.

MR. DE CASTRO: We would like to include the NPA and the Moro National Liberation Front. But if we put them as part here, we will be constitutionalizing the NPA. So I regret that we should not include the NPA and the Moro National Liberation Front in paramilitary forces. They belong to a different category.

REV. RIGOS: So that when we speak of armed groups, are we not referring to the NPA?

MR. DE CASTRO: No. We have private armies of politicians. Sometimes they grow to great numbers — sometimes ten, sometimes five, sometimes two or three. And these are the other armed groups that we speak of here in Section 9.

REV. RIGOS: In other words, the NPA is not at all included in Section 9?

MR. DE CASTRO: May I beg the Commissioner's pardon.

REV. RIGOS: The Commissioner is not including the NPA in any way in the formulation of Section 9?

MR. DE CASTRO: No, we are not including the NPA.

REV. RIGOS: Does the committee plan to come up with the statement that will directly address the problem of the NPA and other similar groups in this?

MR. DE CASTRO: The NPAs are not included in our proposal because this will constitutionalize them. We do not like to make mention of them in our Constitution. They are enemies of the State and they belong to another group.

REV. RIGOS: Is the committee willing to constitutionalize the various groups mentioned by Commissioner Sarmiento?

MR. DE CASTRO: No, Commissioner Sarmiento mentioned "private armies" which are used by politicians now and also paramilitary forces which refer to the CHDF.

REV. RIGOS: But he mentioned the names of fanatical groups.

MR. DE CASTRO: These are some fanatical groups for record purposes.

REV. RIGOS: What is the reason of the committee in being willing to accommodate the interpretation of Commissioner Sarmiento of the armed groups, the names which the Commissioner has mentioned, but not to include the NPA and the MNLF?

MR. SARMIENTO: Mr. Presiding Officer.

MR. DE CASTRO: May we request Commissioner Sarmiento to answer the question?

MR. SARMIENTO: That was answered by Commissioner de Castro. He said that the NPAs and other existing groups, like the MNLF and others, are enemies of the State.

REV. RIGOS: So, the committee does not believe that this section will not affect the present negotiation going on between the government and the MNLF?

MR. DE CASTRO: It will not.

REV. RIGOS: Thank you.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Is it on a point of order, Commissioner?

MS. AQUINO: Clarification, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may proceed.

MS. AQUINO: My question was caused by the inquiry of Commissioner Rigos about the coverage and the interpretation of the clause "ARMED FORCES" or the "ARMED FORCES IN ANY GUISE." After that question, I now raise serious doubts about the validity and the wisdom of that provision. The CHDF problem, together with the existence of other fanatical groups, is a very legitimate concern. It is understandable for us to react by way of providing a constitutional mandate that would prohibit all forms of armed military groups outside of the regular armed forces, but then understandable only because we are in that dangerous interval between the extinction of the old and the establishment of the new.

Since we are in agreement that all of these armed groups are illegal to begin with, in fact, they are prohibited or they are mala in se, such as to mention a few, the "Four K," the "Tadtad group," should we at all give constitutional imprimatur to this kind of a provision which addresses a very specific and time-bound problem that was inextricably linked to the huge conspiracy of militarizing the State under the Marcos regime? If however, the Commissioner's interpretation of the "ARMED GROUP IN ANY GUISE" and "ARMED FANATICAL GROUPS" would cover the American armed forces in the U.S. bases which, strictly speaking, the proposed text would apparently cover, then it would give me infinite pleasure to vote for that provision.

MR. DE CASTRO: Mr. Presiding Officer, the CHDF is not an illegal force. As pointed out by Commissioner Sarmiento, there are existing presidential decrees and executive orders recognizing the organization of this force. The US military forces are not included here.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): May we know the next speaker.

MR. RAMA: There was a reservation for Commissioner Alonto to put two questions to the committee.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may proceed.

MR. ALONTO: To what does the committee refer when it says "PRIVATE ARMIES"?

MR. DE CASTRO: Will Commissioner Sarmiento please answer the question.

MR. SARMIENTO: I have explained before that private armies refer to the armies of political warlords of local politicians.

MR. ALONTO: But those are not the only private armies existing in the country. As I said in my previous statement, the private armies existing in this country are either armies of politicians for purposes of elections and armies of economic groups, businessmen as shown in the Ilaga armed forces of Cotabato.

MR. SARMIENTO: I mentioned Ilaga in my enumeration of armed groups, so, the private armies would refer to groups that are owned or ruled by politicians and even by economic warlords in the local area.

MR. ALONTO: Can we insert "economic, social and political warlords"?

MR. SARMIENTO: Yes, I agree with the Commissioner.

MR. ALONTO: That will embrace almost all the illegal and insidious armed groups in this country.

MR. SARMIENTO: Yes, I agree with the Commissioner, because political warlords use these forces to advance not only their political interest, but also their economic interest. That is why private armies are owned by economic, political and social warlords in their respective areas.

MR. ALONTO: I am even willing to accept that political warlords should include economic, social and religious warlords.

MR. SARMIENTO: It is accepted.

THE PRESIDING OFFICER (Mr. Colayco): Is there any other question?

MR. ALONTO: Like those "Tadtad groups."

MR. RAMA: I ask that Commissioner Villacorta be recognized for a short question.

MR. DE LOS REYES: The second question.

MR. ALONTO: Mr. Presiding Officer, I have my next question.

THE PRESIDING OFFICER (Mr. Colayco): Does the Commissioner have another question?

MR. ALONTO: Yes, I have already given my first question, I am now ready with my next question. As I said I have only two questions.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may now proceed with his question.

MR. ALONTO: If this section would be approved, what will be the effect on the ongoing negotiation between the government and the Moro National Liberation Front and the National Democratic Front which have their own armed troops, particularly the Moro National Liberation Front? There is a standing agreement between no less than the President of this Republic and the chairman of the Moro National Liberation Front, Mr. Misuari, that there is a cessation of hostilities, but this particular group, the Moro National Liberation Front, is still maintaining its so-called Bangsa Moro Liberation Army. What would be the effect of that?

MR. DE CASTRO: Mr. Presiding Officer, the answer is: It does not affect the existing peace talks between the government and the NPAs and with Mr. Nur Misuari of the Moro National Liberation Front. That is why we explained that the paramilitary forces refer to the CHDF and it does not include the NPAs nor the Moro National Liberation Front because we will constitutionalize those two agencies if we so include them under paramilitary forces. So, there is no reason for Commissioner Alonto's fear because they are not, I repeat not included in this

provision.

MR. ALONTO: My fear is not of the Moro National Liberation Front but of the peace and order situation of this country.

MR. DE CASTRO: They are not included and it does not affect the ongoing peace talks between the government and the NPAs and the Moro National Liberation Front.

MR. ALONTO: As soon as this Constitution is approved, since all armed groups, including the armed troops of the Communist Party in this country and the armed groups of the Moro National Liberation Front have to be dismantled, how will that affect the negotiation?

MR. DE CASTRO: As we have stated, the NPAs and the Moro National Liberation Front are not included in what we call "paramilitary forces." They belong to a different category. If the peace talks fail and we will continue to fight, they will be covered by our criminal laws.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA: Mr. Presiding Officer, it is already 12:43 p.m. I move for the suspension of the session until after lunchtime.

THE PRESIDING OFFICER (Mr. Colayco): The session is suspended until two-thirty in the afternoon.

It was 12:43 p.m.

RESUMPTION OF SESSION

At 3:09 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Tingson be recognized for a privileged speech on the fifteenth death anniversary of Don Claro M. Recto.

MR. TINGSON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may now proceed.

QUESTION OF PRIVILEGE OF COMMISSIONER TINGSON

MR. TINGSON: Mr. Presiding Officer and colleagues of this distinguished assembly: A number of years ago in the country of India, if I am not mistaken, one of the greatest Filipinos who have been blessed with a country like the Philippines and similarly our country blessed with a citizen like him, passed away. He regretted the fact that he had to die at a time when he was not in his country, because Don Claro Mayo Recto was a nationalist, patriot, true Filipino par excellence. One of the greatest intellects the Philippines has ever produced, that was Don Claro Mayo Recto. His middle name accounts for his English ancestry on the maternal side, but he was a Batangueño, from the province that gave us the Laurels.

The young Recto had surpassed the scholastic record of Jose Rizal at the Ateneo de Manila, receiving a grade of maxima cum laude, a rating higher than summa and the ultimate grade that a student could achieve. At the

University of Santo Tomas, Recto passed all his courses with the grade of 100 percent. Ironically, however, Recto flunked the bar the first time he took it because he could not express himself in English well, the language being new in the country then. His second language was Spanish and his mastery of that Iberian tongue had earned him a place in the Spanish Academy of Letters. In due time, of course, Recto was able to render his works in English and with a brilliance and delicacy of literary touch that has not been equalled since.

Recto has enriched our cultural and political heritage, but his relevance to us today is more anchored in the fact that he brought the full force of his genius to bear upon the subject of Filipino nationalism. Since we are in the throes of writing a new constitution and now about to finish the task for our Republic, it is of the essence to bear in mind the ultimate nature of a constitution, which Recto himself rendered in this wise: "We are the Constitution in the sense that it can live only in us, through us, for us and because of us." In other words, ink and paper do not a constitution make; but if it must mean the world to the Filipinos, then its prayers and resolutions, its ideals and aspirations must be our ideals, our aspirations, our resolutions and our fervent prayers.

Mr. Presiding Officer, Recto recognized English democracy to be the oldest and the best; and yet, the English do not have a written Constitution while the Filipinos are in the process of writing their sixth fundamental law. The English people rely on some old laws, documents, traditional usages and jurisprudence for a pattern of government that has withstood the test of time. It is self-evident, therefore, that what a Constitution can resolve, guarantee and ordain cannot be more than what the Filipino people are prepared to do for themselves. Recto took every opportunity to point to this and he would do this if he were alive today because we have a tendency to search the Constitution for the roots of the defects and deficiencies in our national life and mistakenly believe that altering the fundamental law will cure them. But of course this is wrong, because according to that great mind — we are referring to Recto of course — the best amendment to the Constitution would be the amendment of our lives. Then he went on to say:

Let us so live and act that our lives and deeds will be the safest stronghold against the abuse of tyrants, the schemes of the ambitious and the cupidity of the corrupt. Only thus can we have a Constitution worthy of our great libertarian patrimony and heroic ancestors who founded it, for us to preserve it and protect it, for us to enjoy in perpetuity its incomparable blessings.

It was characteristic with Don Claro Recto, the great constitutionalist who died about 15 years ago in India, whenever he was confronted with problems besetting the nation, to redirect the national attention towards the nation itself. Without letup, he preached national self-reliance as the open sesame to a world not devoid of problems, but one in which the Filipinos are free and independent and capable agents of their national self-interest. Apropos of this, it should go without saying that Recto shared an abiding respect for the capabilities of his own people. Otherwise, finding the people wanting in many respects, he could not exhort them to self-reliance. In other words, belief in the Filipino was the cornerstone of the Recto nationalism.

Finally, Recto was a man who could speak with excellence, because he was also not only a writer but also an orator and a debater. As a debater he was feared, for he was a formidable opponent possessed with a brilliantly logical mind, whose store of knowledge encompassed the entire Western and Eastern cultural heritage. For him, parliamentary debate was not an end in itself, but a means to the truth. This is the only honorable use for debate, where all issues of Filipino nationalism sheathed in self-evident truths, apparent and clear to all, debate would be superfluous. But such is not the case. Hence, the need for free and open discourse — Recto believed in that ardently.

Our present-day oracles on nationalism, however, would very much want to be listened to but not debated being the self-appointed guardians of truth, as they alone or ourselves, perceive them to be.

Indeed, to be free and independent takes a lot of work, and Recto knew that. We learned from him the exercise of self-respect and the respect for the opinion of others. Mr. Presiding Officer, if Recto had lived during the middle years of the Spanish colonial regime in the Philippines, he would have been amuted bard and a frustrated genius. We are happy that on this death anniversary of the great constitutionalist, we remember the one who inspired our 1935 Constitutional Convention, and whose shadow of inspiration was with us in the 1971 ConCon, and even here in our 1986 Constitutional Commission.

We are grateful indeed, that we had once upon a time, as we read in the Gospel of John, "There was a man sent from God," and I paraphrase: "To live among the Filipinos: His name was Claro Mayo Recto."

Thank you, Mr. Presiding Officer.

CONSIDERATION OF PROPOSED RESOLUTION NO. 540 ON THE ARTICLE ON TRANSITORY PROVISIONS

(Article on Transitory Provisions)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Mr. Presiding Officer, I move that we resume consideration of the Article on Transitory Provisions.

THE PRESIDING OFFICER (Mr. Colayco): What is the situation now?

MR. RAMA: We are now on Section 9, Mr. Presiding Officer. There seems to be no objection on the part of the body, so may I proceed.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader may proceed.

MR. RAMA: I ask that Commissioner Villacorta be recognized to interpellate.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Villacorta is recognized.

MR. VILLACORTA: Mr. Presiding Officer, would the committee and Commissioner Sarmiento yield to a few questions?

MR. SARMIENTO: Gladly.

MR. VILLACORTA: I would like to know if this section is not only punitive but preventive as well.

MR. SARMIENTO: They are both.

MR. VILLACORTA: There are ways of circumventing this provision. For example, a politician can ask members of his immediate and expanded family, as well as his tenants and other followers to individually apply for gun licenses or mission orders at different time intervals. Would this practice be considered a step towards creating a private army?

MR. SARMIENTO: I think so, and this section forbidding the existence of private armies and armed groups and paramilitary troops will cover the situation which the Commissioner is now sharing with us, meaning, arming one's tenants and even the members of his family.

MR. VILLACORTA: If this is so, may the armed forces preempt this practice by denying their individual applications once a pattern of applying for gun licenses has become clear?

MR. SARMIENTO: Yes. As a matter of fact, Congress can pass laws that will give teeth to this provision, one of

which will be giving the AFP the power to prevent issues of mission orders or licenses to politicians who have plans of putting up private armies or armed groups.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. DE CASTRO: As an addition to the explanation of Commissioner Sarmiento, the Philippine Constabulary has its own laws and policies on the licensing of firearms. Those who are granted license to carry firearms or to own firearms in their respective homes are only those who meet the requirements of law and the policy of the Philippine Constabulary. When we talk of mission orders, these are given normally to regular officers and enlisted men of the armed forces. These are being restricted now by policies of the Ministry of National Defense and the Office of the Chief of Staff. So, it will be quite farfetched if we talk of private people or politicians having his men getting a license for firearms.

In the first place, even if one is granted a license for firearms, he cannot carry that firearm outside his residence without another authority from the Philippine Constabulary to bring such firearms. So, it will be quite farfetched to arrive at the fears of Commissioner Villacorta.

MR. VILLACORTA: I raised this question because while it may be farfetched in this administration, what happened during the Marcos administration — when even ordinary civilians had mission orders — could be repeated.

MR. DE CASTRO: I do not believe it will be repeated. Let us look at these provisions without the fact of Marcos in it.

MR. SARMIENTO: May I inform the Commissioner that even politicians are supportive of this proposal. The League of Governors and Mayors has issued a position paper, made a pronouncement that the members are supportive of the proposal of dismantling paramilitary forces, including CHDFs. It is not only the League of Governors and Mayors but also the KMP, FFF, Catholic Bishops Conference of the Philippines, MASA, the Presidential Committee on Human Rights and some opposition members of the defunct Batasang Pambansa.

MR. VILLACORTA: Thank you.

I just have one short question — the last one. The second sentence states: "ALL SUCH FORCES SHALL BE DISSOLVED FORTHWITH." May we be clarified on the meaning of "FORTHWITH"? Does this mean that this will be immediately implemented after the Constitution is ratified?

MR. SARMIENTO: Yes, upon the ratification of this Constitution, "FORTHWITH" would mean immediately. So, after the ratification of this Constitution, these forces have no place in our country. That is the concept.

MR. VILLACORTA: Is that the interpretation as well? That "FORTHWITH" means immediate implementation?

MR. SARMIENTO: Yes.

MR. DE CASTRO: I agree with the explanation of Commissioner Sarmiento that "FORTHWITH" means immediate implementation.

MR. VILLACORTA: I thank the two Commissioners.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: Commissioner Sarmiento, I just want one thing clarified. On the assumption that this formulation will be approved, only on that assumption — and I do mean to bind the committee — it appears that this is not to be included in the Article on Transitory Provisions.

So, again, on the assumption that it will be approved, would it be all right with the Commissioner if we transfer this to the Article on General Provisions?

MR. SARMIENTO: I will have no objection.

MR. MAAMBONG: On the second point, Commissioner Villacorta was asking about "FORTHWITH." When we say: "DISMANTLED FORTHWITH," we are, of course, referring to the present private armies or whatever we do call them. Are we referring to them?

MR. SARMIENTO: To the private armies, armed groups and paramilitary forces.

MR. MAAMBONG: Yes, which we suppose are existing today.

MR. SARMIENTO: Yes.

MR. MAAMBONG: But after these existing paramilitary forces shall have been dismantled, will this provision still apply to future configurations of this kind?

MR. SARMIENTO: The Commissioner is correct.

MR. MAAMBONG: Thank you.

MR. RAMA: Mr. Presiding Officer, may I ask that Commissioner Tadeo be recognized to interpellate.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Tadeo is recognized.

MR. TADEO: Mr. Presiding Officer, kaisa ng kapulungang ito ang sambayanang magbubukid sa madaliang paglalansag o immediate dismantling of private armies, fanatical groups and paramilitary forces. Kaming magbubukid at manggagawang-bukid ang kauna-unahang biktima nito. Kami rin ang karamihang biktima ng mga grupong ito. Saksi rin ako sa bayan ng Plaridel sa aking bayan sa Bulacan na ang mga CHDF ay ex-convicts, mamamatay-tao at magnanakaw ng kalabaw. Saksi rin ako sa aming bayan sa San Rafael at sa San Ildefonso. Sa 42,000 barangay sa buong Pilipinas na kung saan ang mga magbubukid ay dumadalo lamang sa mga rally, maraming pagkakataon na hindi na sila nakakauwi, sinasalvage, minamassacre at inaaresto. Ang mga grupong ito ang isa sa mga dahilan ng patuloy na kaguluhan sa kanayunan. Isa rin sila sa mga dahilan ng paghawak ng armas ng magbubukid at manggagawang-bukid sapagkat nakikita nilang ito na lamang ang proteksyon nila. Kaya isa ito sa mga dahilan ng paglago ng New People's Army. Ang mga grupong ito kailanman ay hindi naging tagapagtanggol ng mamamayan, kung hindi sila ang mga kaaway ng mamamayan. Dahil dito, inuulit ko, kaisa ang sambayanang magbubukid sa madaliang paglalansag ng private armies, ng fanatical group at paramilitary forces.

MR. DE CASTRO: Mr. Presiding Officer, just a comment because it is very difficult to let this general accusation pass.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. DE CASTRO: The accusation of my friend, Commissioner Tadeo, is quite very general and it pictures the CHDF as a bunch of robbers, a bunch of crooks and a bunch of criminals. While I am not defending the CHDF, I do not believe such people, if they are truly part of the CHDF, are tolerated by our government much more by our armed forces. Let the proper investigation be made against those people and let the appropriate laws be applied to

them. While I am in favor of dismantling paramilitary forces, although at the back of my mind, I am thinking of how our armed forces can appropriately campaign against insurgency, I really have reservation and I am very unhappy although I will vote in favor of this provision.

Thank you, Mr. Presiding Officer.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Aquino is recognized.

MS. AQUINO: Just one query. It remains that we proceed from a shared perception that the CHDF is an odious feature of the military. My query would therefore be proceeding from this kind of a perception. Would the President or Congress be disallowed from legislating a statute or enacting an executive order that would create another kind of a paramilitary group to support the military campaign against the insurgency? Would it be struck down as unconstitutional? Would it serve as a bar to the President or to Congress?

MR. DE CASTRO: What the Lady Commissioner has in mind is that if this provision is passed, would it prevent Congress from passing a law or the President issuing executive order to create other forces much like the CHDF?

MS. AQUINO: Yes.

MR. DE CASTRO: That will be a part of the work of Congress or the privilege of the executive. I cannot preempt what they will do. However, I feel that with our provision in our armed forces where we have allowed the citizen armed force to serve the country without stating when and how, I think that will be a good provision for the Armed Forces of the Philippines to use our citizen armed force in lieu of the CHDF. I am very sure and I know that some of these CHDF units are reservists and reserve officers. There is no question in my mind that, perhaps, based on our provision on the armed forces these officers and these enlisted men may be used as citizen armed force, because, as I said before, we do not have the required funds to support a big regular force to fight insurgency.

MS. AQUINO: I am only proceeding from the text of the provision as it is proposed now by the committee. Effectively, the question is: Should we deny the President or Congress the flexibility of responding to situations wherein the creation of a paramilitary force might be necessary?

MR. DE CASTRO: As I said, I cannot preempt the executive and the legislative.

MS. AQUINO: Therefore, how does the committee interpret the provision it is proposing?

MR. DE CASTRO: However, with this provision, private armies, paramilitary forces, and other armed groups in any guise shall not be countenanced.

MS. AQUINO: So what is the interpretation of the committee except to bar in the future any attempt to create a paramilitary force and to render the law or the executive order unconstitutional? It is very unfortunate that the CHDF is blighted with it being a dishonorable adjunct of the military. In the future, this provision would effectively deny the President the latitude of coping with national security interests.

MR. SARMIENTO: Mr. Presiding Officer, may I be allowed to answer the query of Commissioner Aquino?

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Sarmiento is recognized.

MR. SARMIENTO: I think this section will bar the creation of paramilitary troops or forces in the future. Our experience in the past and up to the present is that these forces do not contribute to the peace and order situation in our country. It is actually a liability. Many complaints are being raised about the existence of these forces. The

mere mention of paramilitary shows that they will always be second class forces.

Considering that we have these sections on the armed forces and the citizen armed force, I think they will be sufficient enough to counteract any threat against national security in the future.

MS. AQUINO: I agree fully with that observation. In fact, the CHDF was designed on the basis of economies of scale. It was on the study that it would require only one-tenth of the budget to support a CHDF as against supporting a member of the regular army. However, my question would be: Can we afford to be too empiricist in our perceptions of the future to render final judgment on the basis of a sordid experience that was brought about by the CHDF? Should we render closed all the possibilities of the creation of another type of a paramilitary force that maybe this time, is nation-focused, people-oriented, properly trained and steeped and imbued with the values of soldiery and nationalism?

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro is recognized.

MR. DE CASTRO: If I were a member of the Armed Forces of the Philippines and I have this provision disallowing me to use paramilitary forces and other armed groups, particularly in the campaign against insurgency, the first thing I would do is to request for additional funds to increase our regular force and at the same time request for more funds so that our citizen armed force may be used in the campaign against insurgency. We cannot allow ourselves to be at the mercy of our enemy. We must do everything within our means to protect this country. With this kind of provision, certainly, it is dismissing or dismantling our civilian home defense forces but their dismantling should not allow our armed forces to have more room for additional means with which to fight insurgency.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Chair believes that the matter has been discussed thoroughly.

MR. SARMIENTO: Mr. Presiding Officer, I have one last point. I think the creation of paramilitary forces in the future will destroy Commissioner de Castro's concept of professionalism in the Armed Forces of the Philippines. These are not regular forces of the AFP.

Thank you, Mr. Presiding Officer.

MS. AQUINO: Mr. Presiding Officer, just one last observation.

THE PRESIDING OFFICER (Mr. Colayco): One last observation on the same point.

MS. AQUINO: Would not the purpose which is being desired by this provision be better served by an explicit proviso in the Article on Transitory Provisions which would dismantle the CHDF without having to provide for an umbrella provision affecting all further moves or intentions that will approximate the scenario being painted by Commissioner de Castro?

With the way the original provision was drafted by the committee, it rightfully belongs to the Article on General Provisions; it is all-encompassing. It is a general policy in fact. It does not address specifically the CHDF problem, although by effect it does.

THE PRESIDING OFFICER (Mr. Colayco): The Chair believes that the defects of the provision as observed by some of the Commissioners can be corrected by giving the proper amendments when the period of amendments comes.

MR. RAMA: That is correct, Mr. Presiding Officer.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bacani may proceed.

BISHOP BACANI: I just would like to ask Commissioner de Castro a question. During the public hearings when we refer specifically to the CHDF, were the armed forces people whom we consulted in favor of the dismantling of the CHDF or all such paramilitary forces?

MR. DE CASTRO: They were against dismantling the CHDF because they do not have enough funds to increase their regular force. On the other hand, they need men to fight insurgency. As I said before, insurgency to be effectively controlled will need a ratio of 1-15 and better yet 1-20. At that ratio, we will need at least 400,000 regulars. As of now, we have only 200,000. So they were extremely against dismantling the CHDF but I know the feeling of this Commission is that they are all against the CHDF. That is why I proposed in the provision in the armed forces that the citizen armed force may be used for the internal security of the State pursuant to law. Unluckily that was not passed and it really grieved me. However, I relied on one word in Section 17 which said that the citizen armed force may serve in the security of the State. That to me is enough to balance what I lost in that provision.

BISHOP BACANI: Thank you very much.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Ople has the floor.

MR. OPLE: By way of a question related to the concern expressed by Commissioner Aquino, I believe Commissioner de Castro is right. Here, paramilitary forces will be dissolved forthwith but at the same time there is nothing to prevent the President, as Commander-in-Chief, in the future to make use of the citizen armed force, as in the reformulated amendment that was approved. I am glad to have supplied the word "SERVE" in addition to "TRAINING" in that section that was approved yesterday. The citizen armed force is at the disposal of the President as Commander-in-Chief, and it will certainly be a much better alternative to the CHDF, as we know it now.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, the last interpellator is Commissioner Davide.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

I have some few points to raise. Upon the ratification of this new Constitution, paramilitary forces, private armies or other armed groups would be deemed outlawed immediately, would they not?

MR. DE CASTRO: I guess so.

MR. DAVIDE: Since these would be outlawed, what are the penalties for members of the armed group and for leaders of the armed group?

MR. DE CASTRO: This is how I look at it. The Commissioner is now asking the implementation side of it.

MR. DAVIDE: Yes. The Commissioner has admitted that immediately upon ratification, these are deemed outlawed. So what are the sanctions?

MR. DE CASTRO: This is how I see it. Not long ago, our President ordered the disarming of private armies. I think we know that. With that order, I believe that criminal responsibility shall attach to those people.

MR. DAVIDE: But, is there any specific law now imposing a penalty to a leader or to the followers or members of private armies or armed groups?

MR. DE CASTRO: We have illegal possession of firearms.

MR. DAVIDE: So, they can be prosecuted for illegal possession of firearms?

MR. DE CASTRO: Yes, which is 20 years in jail.

MR. DAVIDE: But under the Commissioner's proposal, it is the group itself that is being outlawed. It is not the individual. We outlaw private armies or armed groups.

MR. DE CASTRO: I do not know when the Commissioner calls this Commission a group. Does it not include the commissioners therein?

MR. DAVIDE: Another point. Who will implement the dissolution of the private armies or the paramilitary forces?

MR. DE CASTRO: Of course, the President and the Armed Forces of the Philippines.

MR. DAVIDE: If the President and the Armed Forces of the Philippines cannot dissolve, would the President in the first case be liable for culpable violation of the Constitution?

MR. DE CASTRO: I do not think so because if our armed forces cannot do it, we might as well have no more armed forces in this country.

MR. DAVIDE: Yes. I was only trying to point out the fact that in the matter of the immediate implementation of the outlawing, the responsibility might be in the President. This has become a constitutional mandate on the President. Therefore, failure to comply with it would amount to a culpable violation of the Constitution.

MR. DE CASTRO: That will be a matter of the Commissioner's interpretation because I do not believe a President will violate the Constitution.

MR. DAVIDE: The violation does not consist in an actual act but in a failure to implement, failure to dissolve.

MR. DE CASTRO: If the President orders the dissolution but our armed forces and our police forces shall be unable to obey it, we might as well have no more armed forces in our country. It is the State that is ordered here and the President is the number one official of the State.

MR. DAVIDE: One final question. In other words, this mandate will not be immediately executory. It will require a directive from the President?

MR. DE CASTRO: Surely.

MR. DAVIDE: So upon the ratification, the President will order private armies, paramilitary forces as deemed dissolved?

MR. DE CASTRO: Yes.

MR. DAVIDE: Thank you.

MR. DE CASTRO: And if they are not dissolved, the police and the armed forces will have to implement the order.

MR. RAMA: Mr. Presiding Officer, we have one more question from Commissioner Foz.

THE PRESIDING OFFICER (Mr. Colayco): Is the Commissioner the last interpellator?

MR. RAMA: Yes, the last interpellator.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Foz may proceed.

MR. FOZ: Mr. Presiding Officer, if this provision is approved as part of our new Constitution, would it bar or prohibit the people in a municipality led by their mayor, for instance, to organize themselves in a time of emergency and to ask the Armed Forces of the Philippines or the PC to supply them with firearms under existing laws and regulations in order to defend themselves against an imminent danger to the town so as to prevent loss of lives and damage to property?

MR. DE CASTRO: Thank you.

I have been looking for the term "pose comitatus" — that is, in our statutes — where the townspeople, in order to prevent immediate danger to them, can fight for their right or for the safety of their municipality. We call it pose comitatus.

MR. FOZ: Is the Commissioner saying that despite this provision, the right of the people in a certain place to arm themselves under existing laws and regulations would still be available?

MR. DE CASTRO: But they cannot arm themselves without asking arms from the armed forces, unless they have hidden arms.

MR. FOZ: Yes, that is the understanding — that the arms will come from military sources.

MR. DE CASTRO: Under that circumstance, the people have the right to defend themselves.

MR. FOZ: Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

MR. SARMIENTO: Mr. Presiding Officer, may I just contribute something to clarify some explanations made by the committee.

In answer to the query made by Commissioner Davide, Commissioner de Castro said that with the approval of this section, all existing private armies and paramilitary forces will be outlawed. I have reservations with respect to that answer because we will be creating disturbances, pockets of violence and disorder in some areas of our country and because that means the private army of Mr. So and So, a political warlord, will be outlawed. I think we should provide some time for these forces to be dismantled, but not immediate outlawing of these private armies or armed groups or paramilitary forces.

MR. DE CASTRO: That is how I see it because the implementation of this cannot be done within a minute. No, sir, it is not as easy as that to disarm armed groups. There will have to be some talks about it. There will be pacification campaigns so that there will be no trouble, no armed clashes between these groups. An example is the recent order of our President to disarm the armed guards of Mr. Durano. Until now I do not believe they have all been disarmed. So this will take a little time. It is not as easy to say, "All right, you are all outlawed." No, sir, it is not as easy as that, when we are dealing with armed groups.

MR. SUAREZ: This is from the committee, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

MR. SUAREZ: May we clarify these issues with Commissioner Sarmiento, the principal proponent, so that there will be a clear understanding regarding the important significance of this section.

When we speak of "SHALL NOT COUNTENANCE," this means the State shall not tolerate the existence of these private armies, which is equivalent to a prohibition. Is the understanding of the committee correct?

MR. SARMIENTO: The Commissioner is correct.

MR. SUAREZ: This prohibition, according to the Commissioner, is not immediately executory, as far as existing private armies or armed groups are concerned?

MR. SARMIENTO: Yes.

MR. SUAREZ: Except that it will serve to prohibit and prevent organizations similar in character to private armies or to armed groups after the ratification of the Constitution.

MR. SARMIENTO: Yes.

MR. SUAREZ: So, what the Commissioner has in mind is a certain period within which these existing private armies and armed groups should be dissolved or dismantled pursuant to this provision?

MR. SARMIENTO: The Commissioner is hundred percent correct.

MR. SUAREZ: Would we consider that the matter be resolved by a congressional act or a presidential issuance as far as the dismantling or dissolution of these private armies is concerned?

MR. SARMIENTO: I have no difficulty with that proposal. As a matter of fact, Commissioner Davide has an amendment to that effect.

MR. SUAREZ: The other point that the committee would like to clear up before going into a vote is the matter of the size and effectivity of these armed groups and private armies. When the Commissioner speaks of an army, he is speaking in terms of a multitudinous representation. Has the Commissioner no size or number in mind?

MR. SARMIENTO: We have no specific number, Mr. Presiding Officer. It could be five; it could be 10; it could be 100, 500 or 1,000. These would be words shared with us by Commissioner Natividad. So, there is no specific number.

MR. SUAREZ: I suppose they would have to be armed and is that the reason the Commissioner calls them private armies?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. SUAREZ: And when we speak of armed groups, I suppose the Commissioner has in mind more than one?

MR. SARMIENTO: Definitely, Mr. Presiding Officer.

MR. SUAREZ: And these armed groups would have to be really armed for a purpose, including armed bodyguards of these politicians or "warlords" as the Commissioner calls them. Is it not the meaning behind this provision?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. SUAREZ: So, assuming that a warlord has two bodyguards armed to the teeth if I may say so, they would be considered armed groups and, therefore, they should be immediately dismantled?

MR. SARMIENTO: I will clarify that, Mr. Presiding Officer. He said that the armed group should be less than five and it could be beyond five; it could be 10, 20, 500 or 1,000, but I think two armed bodyguards would not constitute an armed group or a private army.

MR. SUAREZ: The last point of clarification is: Would this provision have the effect of precluding the President from disbanding the CHDF even before the ratification of the Constitution?

MR. SARMIENTO: No, Mr. Presiding Officer. If that is the position of the President — if she believes that the CHDF is not an asset but a liability to the peace and order situation in our country — we will respect her wisdom.

MR. SUAREZ: So, she has the power to disband them even before the ratification of the new Constitution?

MR. SARMIENTO: We will not prevent the President, Mr. Presiding Officer.

MR. SUAREZ: Thank you.

MR. RAMA: Mr. Presiding Officer, may I ask that Commissioner Rodrigo be recognized?

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to follow up the last answer of Commissioner Sarmiento to the effect that the President has the power to disband these groups even before the ratification of this Constitution. Without any such provision in the Constitution, does the President have the power to disband these groups?

MR. DE CASTRO: Yes, Mr. Presiding Officer.

MR. RODRIGO: I would like to hear the answer of Commissioner Sarmiento.

MR. SARMIENTO: My position is that the President will not be precluded. We are recognizing here a social malady denounced by many of our people, including the League of Provincial Governors and City Mayors, the Catholic Bishops' Conference of the Philippines, KMP (Kilusang Magbubukid ng Pilipinas), FFF (Federation of Free Farmers) and some members of the defunct Batasang Pambansa. It is really a problem, Mr. Presiding Officer.

MR. RODRIGO: The answer of Commissioner Sarmiento is, even without such a provision and even without this provision in our Constitution, the President has the power to dismantle?

MR. SARMIENTO: Only with respect to the CHDF because the existence is justified on the basis of an executive order and two presidential decrees.

MR. RODRIGO: This section prohibits the formation of private armies, paramilitary forces and other armed groups. Does this section also prohibit Congress from enacting a law authorizing the formation of such groups under certain circumstances which need the formation of such groups?

MR. SARMIENTO: No, Mr. Presiding Officer.

MR. RODRIGO: So, Congress has the power?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. RODRIGO: Even with this provision, Congress may make an exception and may pass a law authorizing the formation of such armed groups when it deems necessary, under certain conditions.

MR. SARMIENTO: May I make an exception, Mr. Presiding Officer. Our experience, whether recent or past, is that the existence of these armed groups and private armies is not conducive to peace and order in our country.

The moment Congress enacts laws to create paramilitary forces or armed groups, then that will defeat the very purpose of having professionalism in the Armed Forces of the Philippines because these are paramilitary troops. These are not regular forces. In the words of Commissioner Ople, these are second-class military forces.

MR. RODRIGO: And so, the answer to my question then is, this prohibits Congress from enacting such a piece of legislation.

MR. SARMIENTO: That will be my submission.

MR. RODRIGO: Does it also prohibit the President as Commander-in-Chief and as Chief Executive from allowing under certain circumstances and certain places where there is a real danger of the formation of such groups?

MR. SARMIENTO: Under this concept, yes. But I think the situation the Commissioner is contemplating could very well be covered by the citizen armed force and by the regular forces of the Armed Forces of the Philippines.

MR. RODRIGO: So, this is also a prohibition against the President?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. RODRIGO: And is this a prohibition against the Chief of Staff, the Armed Forces Command, from forming such armed groups if in the judgment of the Chief of Staff or Armed Forces Command, they need it under certain circumstances?

MR. SARMIENTO: Yes, Mr. Presiding Officer.

MR. RODRIGO: Thank you.

MR. SARMIENTO: But let me qualify, Mr. Presiding Officer.

As I have said, this concept, this section was not formulated in a vacuum. This has the support of the collective experiences of people, specially in the rural areas and countryside.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Aquino is recognized.

MS. AQUINO: Just one query. I am not clear about the interpretation of the committee in defining the clause "armed forces outside of the regular armed forces." Is there any attempt to distinguish between political groups with armed components and the groups which were enumerated by Commissioner Sarmiento? I would proceed from the reply of Commissioner de Castro this morning and the query of Commissioner Suarez.

MR. SARMIENTO: That has been amended by Commissioner Ople. So, the words "outside of the regular police" have been substituted with the amendment proposed by Commissioner Ople and several Commissioners.

MS. AQUINO: Yes, I am aware of that. But I think my query proceeds from the interpretation that there is an attempt here to distinguish between political groups or ideological groups with armed components, such as the New People's Army, the Moro National Liberation Front as against the warlord private armies or the Tadtad group.

MR. SARMIENTO: May I answer that question, Mr. Presiding Officer?

As we said this morning, the NPAs, including the MNLF, et cetera are excluded from this provision because we believe that these groups are amply covered by existing laws such as the Revised Penal Code and presidential decrees on antismuggling.

MS. AQUINO: Would that coverage not apply as well to the other armed groups that the Commissioner has

referred to earlier in the interpellations, except for the CHDF which has the mantle of legality by virtue of Executive Order 1012?

MR. SARMIENTO: As we said this morning, this provision covers the CHDF and the other groups we mentioned including fanatical groups, etcetera.

MS. AQUINO: Exactly. My query is: Would those other groups not be covered by the existing statutes, criminal law, for example?

MR. SARMIENTO: What other groups is the Commissioner referring to?

MS. AQUINO: Apparently, our only problem is the CHDF and its blighted history.

MR. SARMIENTO: The section does not simply refer to the CHDF.

MS. AQUINO: I am just proceeding from the Commissioner's reply to my query that the armed groups that he referred to outside of the CHDF, for example, the NPA, the MNLF, regardless of their political character, are sufficiently covered by the statutes and the laws. The Commissioner said that likewise, the same statute would cover the other armed groups in the nature of the armed fanatical groups. So, apparently, our only problem here is the CHDF.

MR. RAMA: May I suggest that we go to the period of amendments, Mr. Presiding Officer, so we can solve some of the problems.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection?

MR. MAAMBONG: Just one more clarification from the committee.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: I ask that Commissioner Sarmiento be recognized.

THE PRESIDING OFFICER (Mr. Colayco): The Chair would like to inform the body that in its opinion, this matter has been discussed exhaustively. I think we should move forward after these questions.

Commissioner Maambong will please proceed.

MR. MAAMBONG: Would it be within the Commissioner's competence to answer why after all the recommendations of the League of Provincial Governors and City Mayors, the Catholic Bishops' Conference of the Philippines, and all other organizations the Commissioner mentioned earlier, the President has not disbanded the CHDF up to now?

MR. SARMIENTO: Considering the problems facing the nation and the numerous responsibilities that the President has to contend with, I think the President for lack of time has not acted on this issue. But to the best of my information and knowledge, the President is considering the dismantling of the CHDF.

MR. MAAMBONG: Is the Commissioner serious in saying that this actually escaped the mind of the President, considering that there are human rights organizations complaining about these things?

MR. SARMIENTO: The President has created the PCHR, the Presidential Committee on Human Rights. This is one of the bodies clamoring for the dismantling of the CHDF.

MR. MAAMBONG: I am asking this question to follow up the question of Commissioner Aquino. Thank you.

MR. OPLE: Mr. Presiding Officer, just one last input into this vital debate before we proceed to the period of amendments.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may proceed.

MR. OPLE: May I point out, Mr. Presiding Officer, that these groups we speak of as being so inimical that they should not be countenanced by the State are actually interactive in character. I think both Commissioners Natividad and de Castro know that many of the so-called private armies of warlords have a semblance of legality now. They are authorized to bear arms as CHDFs. They have appointments as CHDFs. There are, for example, groups guarding the fishponds and plantations in many parts of the country and which are armed groups in our classification, but which are actually authorized by virtue of CHDF designations. Any unified regional commander can issue CHDF designations. And we all know that in Bulacan, Pampanga and Bataan along the seacoast, there are many security people with arms because fishponds have to be guarded. Before General Magno left Central Luzon to go to Mindanao, we — Commissioner Natividad and myself — had a meeting with him and all the fishpond operators. His proposal was to issue CHDF designation to all of the security guards in the fishpond areas.

And so, I was just trying to picture a configuration of armed groups where they interact with private armies and other armed groups and to use the words "political, economic and religious warlords," they are entitled to private armies by means of a cover of legality through CHDF designations. I know one sect that has a kind of private army but under the semblance of legality through CHDF designations. And, therefore, I just thought this was an important point to put on record so we appreciate the interrelationships among these groups enumerated in the prohibition.

Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Floor Leader is recognized.

PERIOD OF AMENDMENTS

MR. RAMA: I move that we proceed to the period of amendments on this particular section.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none; the motion is approved.

The Floor Leader may proceed.

MR. RAMA: Before I read the first amendment, may I ask Commissioner Bacani to make a point of information.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Bacani is recognized.

BISHOP BACANI: Just a point of information because the Catholic Bishops' Conference was referred to here as being in favor of the dismantling of the CHDF. I just would like to make it clear that I am not aware of such a position, though I think such a position has been taken by the National Secretariat of Social Action which is an arm of the Episcopal Commission on Social Action of the Catholic Bishops' Conference of the Philippines. But in the setup of the CBCP, such a position of a group may not necessarily be the position of the entire Catholic Bishops' Conference of the Philippines though it may not necessarily contradict the position of the CBCP.

Thank you.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Rodrigo be recognized for an anterior amendment.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rodrigo has the floor.

MR. RODRIGO: Mr. Presiding Officer, my amendment is to delete the whole Section 9. I will be very brief. I already enunciated my reasons during my interpellation. It turns out that even without this provision in our Constitution, it is within the power of the President to dismantle the private armies and other armed groups.

THE PRESIDING OFFICER (Mr. Colayco): What is the reaction of the committee?

MR. DE CASTRO: We accept the motion of Honorable Rodrigo.

MR. RODRIGO: Thank you.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection?

MR. SUAREZ: I think the committee, with due respect to Commissioner de Castro, would rather throw the matter to the wisdom of the Commissioners.

MR. RODRIGO: May I have two minutes then.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rodrigo may proceed.

MR. RODRIGO: The reasons for my amendment were already elicited during my interpellation and also during the interpellation of Commissioner Aquino. Even without this provision, it is within the power of the President, first of all, and of Congress to order the dismantling of these armed groups. And, of course, it is within the power of Congress to declare these armed groups illegal. On the other hand, if we enact this provision in our Constitution, we will tie the hands of the President. We will not give her any leeway for action on this matter. And we will tie the hands of Congress. Why should we do that? The members of Congress will be elected by our people. The President was elected by our people. So why should we preempt the President and Congress on this matter? I have confidence that the President and the Members of Congress, who are elected representatives of our people, will act as wisely as we can, if not more wisely, on this matter.

Thank you very much.

MS. QUESADA: Mr. Presiding Officer.

MR. OPLE: Mr. Presiding Officer, may I say a few words against the amendment?

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Ople is recognized.

MR. OPLE: Thank you.

What Commissioner Rodrigo said in support of his motion to delete the entire section is undeniably correct. The President and the Congress have these powers to dissolve forthwith, as we say in the reformulated amendment, all of these private armies, armed groups, paramilitary forces. But that is quite different from saying that there is a constitutional mandate for both the President and the Congress to take the steps necessary in order to make this noble provision of the Constitution executory. I think we might be exposed to future censure if, having already taken cognizance of the inimical and very often tragic consequences of the existence of these forces identified in the proposed section, the Constitutional Commission did not take the initiative to establish this mandate at least in the Transitory Provisions of the Constitution.

One possible consequence of this would be really for the citizen army that has been approved as the centerpiece of a new configuration of the Armed Forces of the Philippines relying on the people themselves for the bulk of national security and defense. This will be realized more quickly and more fully if we did not build this section in the Transitory Provisions because what will happen, Mr. Presiding Officer, is that in lieu of the CHDF, and I

already traced the relationship between the CHDF and the other groups here — private armies, paramilitary forces and other armed groups — the President as Commander-in-Chief and Congress will have to take swifter and stronger measures to put into effect the citizen armed force that this Commission very wisely has already created as the foundation of the new Armed Forces of the Philippines. The citizen armed force will merely take the place of all of these paramilitary forces. I think the effect will be highly positive; it will be creative, it will eliminate perhaps one-half of all the causes of the tragedies that we witness today in our troubled countryside.

Thank you very much.

MR. NOLLEDO: Mr. Presiding Officer, for only one minute.

MS. QUESADA: Mr. Presiding Officer.

MR. NOLLEDO: May I speak against the deletion?

MS. QUESADA: This is a point of inquiry.

THE PRESIDING OFFICER (Mr. Colayco): Is Commissioner Quesada going to speak against the amendment?

MS. QUESADA: Point of inquiry first.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Quesada may proceed.

MS. QUESADA: Would the deletion of this provision, as reformulated this morning, preempt the possibility of an amendment? The reformulation is: "THE STATE SHALL NOT COUNTENANCE PRIVATE ARMIES, PARAMILITARY FORCES AND OTHER ARMED GROUPS. ALL SUCH FORCES SHALL BE DISSOLVED FORTHWITH." So, would the deletion of this provision preempt any other amendment that would be introduced by other Members?

MR. RODRIGO: To whom is the question addressed?

MS. QUESADA: I would like to pose this question to the Chair.

THE PRESIDING OFFICER (Mr. Colayco): Does the Commissioner want the ruling of the Chair?

MS. QUESADA: Yes.

RULING OF THE CHAIR

THE PRESIDING OFFICER (Mr. Colayco): If the amendment to delete is approved, any additional amendment which would in effect restore the substance of the deleted section would be out of order because that would in effect be a motion for reconsideration which is the proper form to be made.

MS. QUESADA: Thank you, Mr. Presiding Officer. In that case, I strongly object to the motion to delete this provision.

MR. DAVIDE: Parliamentary inquiry.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide may proceed.

MR. DAVIDE: The motion now is to delete. What should be deleted — the original Section 9?

MR. MAAMBONG: It has to be the original Section 9.

MR. DAVIDE: But the reformulation was practically in the nature of an amendment which was discussed this morning.

MR. MAAMBONG: As far as the committee is concerned, the reformulated amendment has not been accepted by the committee but there is a prior motion to delete; so, we have to revert to the original configuration in the committee report.

MR. DAVIDE: So what is to be deleted is not the reformulated proposal but the original Section 9, which reads:

All armed groups and paramilitary forces now existing outside of the regular police and armed forces shall be dismantled.

That is the one to be deleted.

MR. OPLE: Mr. Presiding Officer, may I suggest that in the interest of a responsible joining of the issues, because after all for the past two hours we have been talking about this reformulated amendment, the debates be based not on the original text but on the reformulated amendment which has required the coming together of several Commissioners in several meetings with the committee.

I do not know if procedurally this is difficult, if not impossible, but I think there is nothing to prevent this Commission from voting right now in the interest of clarity and of joining of the issues for purposes of a vote later whether to put on the agenda not the original text which we have not been talking about anymore but the reformulated text which is the subject of these debates that are now taking place.

Thank you, Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer, may I comment on that. If that is the motion, that we vote on the reformulated amendment, then the matter to be taken is not to delete but to vote on it. It was accepted by the committee; then any motion to delete would actually amount to a "no" vote for that.

MR. MAAMBONG: The committee already said that it has not accepted the reformulated amendment. As a matter of fact, if the Honorable Rodrigo had not moved to delete, the committee would have tossed the reformulated amendment for voting to the body. But it was overtaken by the motion to delete and we have already agreed that that is supposed to be in precedence to the amendment itself.

MR. DAVIDE: Thank you for that clarification.

MS. QUESADA: Mr. Presiding Officer.

MR. RODRIGO: Mr. Presiding Officer.

MS. QUESADA: I think I still have the floor.

I have seen the dire implications of the response from Commissioner Rodrigo. In addition then to what the other Commissioners have already expressed here, I would still like to make a last-ditch appeal to the Members of this body to really reflect on the decision that we make on so vital an issue — not for us, perhaps, because we never can experience the atrocities and the sufferings that have been inflicted by these paramilitary forces, but for many people in the countryside who would call on us now to make in their behalf. They may not be here but they are awaiting our decision on this particular issue that they have expressed to us so poignantly, especially the victims of the CHDFs during our public hearings. It will really be insensitivity on our part not to respond to what they have called us to act on.

So I hope that it is not just going to be a technicality that the President can direct its dismantling or not, but that we provide a clear mandate in the Transitory Provisions for the President. If the President has not given thought to these people who have been waiting for a response to their problem of being victimized by militarization in the countryside, then let it be us who will speak for them because they cannot be here to speak in their behalf.

MR. OPLE: One question before we vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Chair would like to ask the proponent of the amendment if his position here is rigid or flexible.

MR. RODRIGO: What does the Chair mean by rigid or flexible?

THE PRESIDING OFFICER (Mr. Colayco): The Chair means whether or not the Commissioner thinks that an informal exchange of ideas could facilitate a decision.

MR. RODRIGO: Does the Chair suggest a suspension?

THE PRESIDING OFFICER (Mr. Colayco): If it will work at all. If the Commissioner's position is inflexible, the Chair would not advise it.

MR. RODRIGO: I have no objection to suspending the session. Whether my position is inflexible or not, I am willing to listen.

MR. OPLE: Yes, but before the Chair calls a suspension, if that is the proposal, may I just ask one question of the proponent or of the committee or of the Chair: Will the deletion of this sentence, assuming the motion prevails, in accordance with the previous statement of the Chair, foreclose consideration of the amendment as reformulated which is the subject of these debates that are now taking place? It will, in effect, repeat the substance of the original text.

THE PRESIDING OFFICER (Mr. Colayco): If it will do so, then the deletion will foreclose any amendment of the nature which is now on the floor.

MR. OPLE: Thank you very much, Mr. Presiding Officer.

The answer I think helps establish the soundness of what I proposed earlier in the interest of joining the issues for voting. But, nevertheless, Commissioner Rodrigo is entitled to his right to move for the deletion.

THE PRESIDING OFFICER (Mr. Colayco): Yes.

REV. RIGOS: Point of inquiry, Mr. Presiding Officer.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Under the Rules, I believe only two speakers are allowed from both sides.

REV. RIGOS: Point of inquiry, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may proceed.

REV. RIGOS: Has the Chair given a ruling on which formulation is to be deleted?

THE PRESIDING OFFICER (Mr. Colayco): Yes, the original formulation because the amendment to the formulation has not been accepted by the committee.

REV. RIGOS: Thank you.

MR. NOLLEDO: Mr. Presiding Officer, I ask for liberality.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Nollado is recognized.

MR. NOLLEDO: For only a few minutes, I would like to talk against the motion to delete.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may proceed.

MR. NOLLEDO: Thank you.

I am a coauthor of the original provision formulated by the committee and submitted before the Committee on General Provisions. I do not deny that the President, as Commander-in-Chief, has the power to dismantle these armed groups or paramilitary forces. And it seems to me that the President during her campaign told the people that upon her assumption to office, she would issue an order to dismantle the CHDF and other armed groups. And I will also not deny, Mr. Presiding Officer, that the Congress as the repository of the people's authority and power can also dismantle these armed groups and paramilitary units.

But, Mr. Presiding Officer, will they do so even in the presence of the overwhelming clamor of the people as shown in our public consultation? Must we ignore our people who are already tired of these social maladies existing in our midst? Shall we miss the opportunity of giving to the Congress or to the President of the Philippines the duty to dismantle the paramilitary forces and armed groups, Mr. Presiding Officer? We are mandating the President or the Congress to dismantle the private armies, paramilitary units and the armed groups which have proliferated in our midst and have constituted national as well as social maladies in our country.

But, Mr. Presiding Officer, sad to say, our authorities have adopted a timid attitude towards this problem. Let this Constitutional Commission please hear the clamor of the people.

Thank you, Mr. Presiding Officer.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Is the Commissioner going to speak in favor?

MS. AQUINO: No, I would only like to move for the reconsideration of the ruling of the Chair on the query of Commissioner Rigos.

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may state her position.

MS. AQUINO: The interpellations and information that were drawn out of the interpellations were all pertinent to the reformulated committee amendment, not the original Section 9. And one way or the other, most of the Commissioners have decided on the basis of the interpellations pertinent to that new formulation. And it will be some kind of an injustice to some of us if our decisions are preempted by pushing us to decide on the basis of the original provision which was not the basis of our interpellations. That was how I perceive my questions to be.

THE PRESIDING OFFICER (Mr. Colayco): I see the Commissioner's point. So that the body can have a thorough decision on the issue, I will suggest a suspension for two or three minutes so that Commissioner Aquino can explain to the committee that the motion to delete refers not to the original wording or formulation of Section 9 but to the reformulated section.

MR. MAAMBONG: Mr. Presiding Officer.

REV. RIGOS: Before the suspension of the session, may I ask one question?

THE PRESIDING OFFICER (Mr. Colayco): The Commissioner may proceed.

REV. RIGOS: In case the Chair sticks to the original decision that the formulation to be deleted is the original Section 9, and suppose the Commission votes for the deletion, will the proposed amendment as reformulated by Commissioner de Castro and which we have been discussing in the past two hours be entertained?

THE PRESIDING OFFICER (Mr. Colayco): No, not anymore. That is why the proposal now of Commissioner

Aquino is for the committee to reconsider its decision not to accept the reformulation so that if the motion to delete is acted upon it would be for the deletion of not only the original section but all the reformulated provisions of Section 9.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: Mr. Presiding Officer, when the committee made a comment earlier, we were only trying to stick to the Rules, but we can do it in an abbreviated manner if it is the position of many that what should be subject to deletion is the reformulated provision. We can put it to the body or we can always bend over backwards if the body will agree. But we were only stating our position in consonance with the Rules, but if the body so decides that what should be subject to deletion is the reformulated provision then let it be so, but it should be submitted to the body.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Colayco): The desire of the Chair is to obviate further technical objections. That is why we will suspend the session for a few minutes to give the committee an opportunity to review its stand after consultation or conference with Commissioner Aquino.

It was 4:26 p.m.

RESUMPTION OF SESSION

At 4:38 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Colayco): The session is resumed.

MR. RAMA: Mr. Presiding Officer, I ask that the chairman of the committee be recognized.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

After discussing the matter with the committee, the committee has decided to submit a reformulated proposal and may we submit it for consideration before the Commission? It will read: "THE STATE SHALL NOT COUNTENANCE PRIVATE ARMIES, PARAMILITARY FORCES AND OTHER ARMED GROUPS IN ANY GUISE. ALL SUCH FORCES SHALL BE DISSOLVED FORTHWITH."

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rodrigo is recognized.

MR. RODRIGO: Mr. Presiding Officer, I move to delete the reformulated proposal.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Davide is recognized.

MR. DAVIDE: This is a privilege motion. I move that any favorable vote on the motion to delete shall not preclude the further discussion on the section for possible modification or amendments.

MR. NOLLEDO: I second the motion.

THE PRESIDING OFFICER (Mr. Colayco): Are there any objections to the motion? Is the body ready to vote on the motion to delete?

MR. RAMA: Yes, Mr. Presiding Officer.

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rodrigo is recognized.

MR. RODRIGO: Before we vote, I just want to say something about what Commissioner Nollado said that the President has not acted on the dismantling of the CHDF notwithstanding the strong clamor of the people.

In fairness to the President, I think she has not forgotten this matter. But then we have to realize that she has been in office for only seven months. And she has been saddled with very many serious problems — the NPA threat, the MNLF threat, even the loyalist threat, the so-called Manila Hotel coup d'etat and the economic problem. So we should understand why the President has not yet acted resolutely on this matter. But I believe that this is among her priorities and, given the time, she will act on this matter. If she cannot act on this matter due to circumstances, then, even if we provide this 10 times in our Constitution, she cannot implement it.

And further, Mr. Presiding Officer, I think that considering the very volatile situation of our country's peace and order and our security, we must give flexibility to the decision-makers on whether paramilitary units are needed in certain portions of the Philippines and on certain occasions. We should not tie the hands of Congress and the executive on this. We should not preempt them because we need flexibility for the sake of the safety of our people.

Thank you very much.

VOTING

THE PRESIDING OFFICER (Mr. Colayco): As many as are in favor of the deletion of the reformulated Section 9, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 15 votes in favor, 14 against and one abstention; Section 9 as reformulated is deleted.

MR. GARCIA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Garcia may proceed.

MR. GARCIA: I would like to propose a reformulation of Section 9 to read: "THE CHDF NOW EXISTING OUTSIDE OF THE REGULAR POLICE AND ARMED FORCES SHALL BE DISMANTLED."

THE PRESIDING OFFICER (Mr. Colayco): What does the committee say?

MR. DE CASTRO: We do not accept that.

MR. GARCIA: I think it is very clear that the problem we have here is that a paramilitary force operating under the cloak, under the mantle of legality is creating a lot of problems precisely by being able to operate as an independent private army for many regional warlords. And at the same time, this I think has been the thrust, the intent of many of the discussions and objections to the paramilitary units and the armed groups.

So, I suggest we tackle the problem head-on in the Transitory Provisions by specifically mentioning the CHDFs. If there are needs in the other areas for defense, for national security, then we can create an appropriate body and we can incorporate this into the regular armed forces or the regular police where they can be properly trained and

equipped to meet the problems. This is my proposal.

THE PRESIDING OFFICER (Mr. Colayco): May I know the reaction of the committee.

MR. DE CASTRO: Mr. Presiding Officer, may I ask Commissioner Garcia a question.

Did the Commissioner state that the CHDF is outside the armed forces?

MR. GARCIA: It is outside the regular police and armed forces.

MR. DE CASTRO: It is actually part of the armed forces based on the presidential decrees and executive orders cited by Commissioner Sarmiento.

MR. GARCIA: But precisely the understanding is that it is a paramilitary unit and not part of the regular armed forces. I think Commissioner de Castro himself mentioned earlier that it is a very different mechanism.

MR. DE CASTRO: To make it clearer, I suggest that the Commissioner reformulate his proposal so that it should not be part of the armed forces because if we say that the CHDF is outside the armed forces, it will not be correct as it is actually part of the armed forces based on presidential decrees and executive orders. So, if the Commissioner wants anything about the CHDF, I suggest that he reformulate his proposal.

REV. RIGOS: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rigos is recognized.

REV. RIGOS: Just one question.

MR. GARCIA: If the Commissioner wishes to make it more simplified and direct, we can say: "THE CHDF SHALL BE DISMANTLED."

MR. SUAREZ: Yes, something like that.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Vice-President is recognized.

MR. PADILLA: May I propose a reformulation.

THE PRESIDING OFFICER (Mr. Colayco): Is the Vice-President amending the reformulation of Commissioner Garcia?

MR. PADILLA: No, this is something separate because that was not accepted by the committee and I am trying to formulate another one.

THE PRESIDING OFFICER (Mr. Colayco): Will the committee please express its opinion of the Garcia reformulation.

MR. SUAREZ: May we just request that the initials "CHDF" be translated into "CIVILIAN HOME DEFENSE FORCES."

MR. GARCIA: Yes, Mr. Presiding Officer, to read: "THE CIVILIAN HOME DEFENSE FORCES SHALL BE DISMANTLED."

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner de Castro may proceed.

MR. DE CASTRO: As reformulated, Section 9 reads: "THE CIVILIAN HOME DEFENSE FORCES SHALL BE DISMANTLED." The Commissioner is making a definitive statement on a particular group. Is that right?

MR. GARCIA: Yes.

MR. DE CASTRO: Suppose after we pass this the President changes its name, therefore, our Constitution is no longer applicable because the CHDF has been dismantled.

MR. GARCIA: If the President creates a different force to meet a different problem, it is a different entity. The point I am trying to make is that historically we have been burdened with the paramilitary force which has operated under the cloak of legality and legitimacy and therefore has created havoc in the countryside. We are trying to meet a historical problem that is why it is in the Transitory Provisions. The President or Congress can in fact create other forces to meet other problems with new manpower, with a different orientation and different direction. That is fine. We are meeting a particular historical problem, that is all.

MR. DE CASTRO: So if the CHDF is dismantled and another name is given in its place, will the Commissioner have no objection?

MR. GARCIA: I will have an objection if it violates the spirit of this provision. If they create a completely new force, it is a different story. But if they simply change the name, then it violates the Constitution.

THE PRESIDING OFFICER (Mr. Colayco): The Chair wants to know the decision of the committee.

MR. SUAREZ: Considering the rather controversial character of the proposal, may we submit that to the Commissioners for appreciation, Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Just a minute, the Vice-President was ahead of Commissioner Davide.

The Vice-President may proceed.

MR. PADILLA: I was going to propose a new formulation to read as follows: "PRIVATE ARMIES OF POLITICAL WARLORDS AND OTHER ARMED FORCES NOT RECOGNIZED BY CONSTITUTED AUTHORITY SHALL BE DISMANTLED AND DISSOLVED."

MR. GARCIA: May I say a brief word on that point.

THE PRESIDING OFFICER (Mr. Colayco): Yes.

MR. GARCIA: Precisely what we were trying to say is that private armies or any armed groups are themselves outside the law. They are already illegal. But what makes the CHDF an anomaly is that it has the cloak of legality and legitimacy which has been explained by numerous Commissioners. It is this that we are objecting to.

MR. SUAREZ: Parliamentary inquiry. Is the proposal of the Honorable Vice-President by way of amendment to Commissioner Garcia's proposal or is it an entirely new proposal?

THE PRESIDING OFFICER (Mr. Colayco): The Chair believes that it is an amendment by substitution, is it not?

MR. PADILLA: It is really a new proposal considered in the nature of an amendment or even an independent proposal.

THE PRESIDING OFFICER (Mr. Colayco): Does Commissioner Garcia accept the amendment by substitution?

MR. GARCIA: No, Mr. Presiding Officer.

MR. SUAREZ: So, may the committee request that the proposal of Commissioner Garcia be put to a vote.

May we have the proposal of Commissioner Padilla.

THE PRESIDING OFFICER (Mr. Colayco): It must be the first one to be voted upon.

MR. SUAREZ: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Will the Vice-President please read the substituted version?

MR. PADILLA: "PRIVATE ARMIES OF POLITICAL WARLORDS AND OTHER ARMED FORCES NOT RECOGNIZED BY CONSTITUTED AUTHORITY SHALL BE DISMANTLED AND DISSOLVED."

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Aquino is recognized.

MS. AQUINO: Mr. Presiding Officer, may I suggest that we treat the Padilla amendment independently of the Garcia amendment and let us call for a vote first on the Garcia amendment. If it is voted down, then the body will now address itself to the Padilla amendment. If it is approved, then the Padilla amendment would serve as an insertion to the Garcia amendment.

THE PRESIDING OFFICER (Mr. Colayco): No, the Chair believes that the Padilla amendment is an amendment by substitution. And since it was rejected, the body must first vote on the amendment by substitution.

MR. OPLE: Mr. Presiding Officer, may I know if this will foreclose another amendment by substitution in due course?

THE PRESIDING OFFICER (Mr. Colayco): In view of the fact that the motion of Commissioner Davide was approved by the body which, in effect, would not preempt any subsequent further amendment, I believe that the answer is no.

MR. OPLE: Thank you very much. I will await my turn.

MR. GASCON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Gascon is recognized.

MR. GASCON: I would like to ask a question. If we vote on the Padilla amendment, does it not preclude our voting on the Garcia amendment, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Colayco): If the Padilla amendment is voted upon favorably, there will be no further need for the reformulation of Commissioner Garcia.

MR. GASCON: But the substance of the two are different. In fact, they can be taken separately. The Padilla amendment speaks of private armies, while the Garcia amendment speaks of the CHDF. They can be taken separately, Mr. Presiding Officer. I do not think that it should preclude the Garcia amendment.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rigos is recognized.

REV. RIGOS: Mr. Presiding Officer, may I ask whether a proposed amendment by substitution shall be subject to the acceptance or rejection by the committee?

THE PRESIDING OFFICER (Mr. Colayco): I think they have also rejected it.

REV. RIGOS: Thank you.

MS. QUESADA: Mr. Presiding Officer, point of inquiry.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Quesada is recognized.

MS. QUESADA: Could I ask Commissioner Padilla if his formulation actually excludes the CHDFs? He said the armed groups are not recognized by the legal authorities.

MR. PADILLA: My proposal covers two parts: the private armies of political warlords and other armed forces not recognized by constituted authority which shall be dismantled and dissolved.

In my trips to the provinces, I heard of many abuses committed by the CHDF, specially in Escalante, Negros Occidental. But I do not know whether a particular CHDF is approved or authorized by competent authority. If it is not authorized, then the CHDF will have to be dismantled. If some CHDFs, say in other provinces, are authorized by constituted authority, by the Armed Forces of the Philippines through the Chief of Staff or the Minister of National Defense, if they are recognized and authorized, then they will not be dismantled. But I cannot give a categorical answer to any specific CHDF unit, only the principle that if they are armed forces which are not authorized, then they should be dismantled.

MS. QUESADA: So, based on the clarification made by the committee and Commissioner Sarmiento, the CHDFs are supposed to be recognized because they serve as adjuncts to the Armed Forces of the Philippines. So, that would in effect exclude the CHDF which was the main contention of Commissioner Garcia.

MR. PADILLA: On that assumption, although I do not know whether all these armed forces that are supposed to be operating as CHDF have been really specifically and actually authorized, then the conclusion will follow from the clear enunciation of my proposed amendment.

MS. QUESADA: Thank you for the clarification.

THE PRESIDING OFFICER (Mr. Colayco): Will the Vice-President read the proposal again before the body votes.

MR. PADILLA: "PRIVATE ARMIES OF POLITICAL WARLORDS AND OTHER ARMED FORCES NOT RECOGNIZED BY CONSTITUTED AUTHORITY SHALL BE DISMANTLED AND DISSOLVED."

REV. RIGOS: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Rigos is recognized.

REV. RIGOS: May I ask if Vice-President Padilla would consider a simple amendment? "PRIVATE ARMIES OF POLITICAL OR ECONOMIC WARLORDS, . . ."

MR. PADILLA: I can accept that: "POLITICAL OR ECONOMIC WARLORDS . . ." so long as the word "WARLORDS" is present.

REV. RIGOS: Thank you.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

I think there must be a clear distinction between the Padilla proposal and the Garcia proposal because they cover two entirely different subjects. And it is only fair, Mr. Presiding Officer, that there must be two separate votings on these. A favorable ruling on the Padilla proposal should not preclude Commissioner Garcia from resubmitting

his proposal.

That is the respectful suggestion of the committee, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): The Chair wants to know if there is a different opinion from the body.

Commissioner Guingona is recognized.

MR. GUINGONA: Mr. Presiding Officer, I concur with the opinion of the chairman and I believe that since the two matters involved are different subjects, then the first proposal should be the one that should be voted upon first. And then the second proposal which is on a different subject matter should be voted upon later.

THE PRESIDING OFFICER (Mr. Colayco): It really would not matter either way.

Commissioner Monsod is recognized first.

MR. MONSOD: I just wanted to ask if we are going to vote on the Padilla amendment. I wanted to propose an amendment — to add the words "RELIGIOUS GROUPS."

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Monsod is proposing an amendment to the proposal of Commissioner Padilla.

MR. MONSOD: I would like to propose that we also include "RELIGIOUS GROUPS" because the religious fanatic groups in Mindanao are one of the biggest problems in that island.

MR. OPLE: May I now raise my inquiry, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Colayco): Is it with reference to the proposed amendment, Commissioner Ople?

MR. OPLE: Yes, in accordance with the approach that has been proposed and which I think has been accepted by the committee on separate voting on the Padilla and the Garcia amendments.

Earlier, I made my reservation for another amendment by substitution. Does the Chair think that if we have to vote on these two separate proposals now, it is the time to input this proposed amendment by substitution so that there will be three choices, and we do not have to present this amendment later if it can be disposed of together with the other two now?

THE PRESIDING OFFICER (Mr. Colayco): The Chair will get back to Commissioner Ople.

MR. OPLE: Thank you very much, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Does the Gentleman accept the proposed amendment of Commissioner Monsod?

MR. PADILLA: Yes, Mr. Presiding Officer. And I would also add a suggestion of Commissioner Concepcion to insert the word "DULY" to "CONSTITUTED AUTHORITY," to read: "AND OTHER ARMED FORCES NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY."

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Maambong is recognized.

MR. MAAMBONG: May we have the complete formulation now because there were the words "RELIGIOUS" and "ECONOMIC" that were added.

MR. PADILLA: "PRIVATE ARMIES OF POLITICAL OR RELIGIOUS ECONOMIC WARLORDS AND RELIGIOUS GROUPS AND OTHER ARMED FORCES NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY SHALL BE DISMANTLED AND ELIMINATED AND DISSOLVED."

MR. RAMA: Mr. Presiding Officer.

MR. DE CASTRO: Will the Gentleman agree to change "other armed forces" with "GROUPS AND OTHER ARMED GROUPS"? Because if we put "armed forces" it will appear that there is another armed force.

MR. PADILLA: The problem is, the amendment of Commissioner Monsod speaks already of religious groups.

MR. DE CASTRO: May we change "armed forces" to "GROUPS AND OTHER ARMED GROUPS"?

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Colayco): It would be necessary for the reformulation to be discussed with the committee so that copies can be distributed among the members. And to this end, the Chair will declare a recess.

It was 5:03 p.m.

RESUMPTION OF SESSION

At 5:36 p.m., the session was resumed with the Honorable Cirilo A. Rigos presiding.

THE PRESIDING OFFICER (Rev. Rigos): The session is resumed. The Floor Leader is recognized.

MR. RAMA: I ask that the committee chairman be recognized for the parliamentary situation.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

Actually, there are two proposals on deck — the Garcia proposal which reads: "THE CIVILIAN HOME DEFENSE FORCES SHALL BE DISMANTLED" and the Padilla proposal coauthored by Commissioners Ople, Monsod and Sarmiento, reading: "PRIVATE ARMIES OF POLITICAL OR ECONOMIC WARLORDS OR OF FANATICAL SECTS, AND OTHER ARMED GROUPS NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY SHALL BE DISMANTLED.

PARAMILITARY UNITS, INCLUDING CIVILIAN HOME DEFENSE FORCES, NOT CONSISTENT WITH THE CITIZENS ARMED FORCES ESTABLISHED IN THIS CONSTITUTION SHALL BE DISSOLVED, OR WHERE APPROPRIATE, CONVERTED TO REGULAR FORCES."

At the instance and special request of Commissioner Garcia, it is suggested, Mr. Presiding Officer, that the Garcia proposal which I had already read be first submitted for consideration by the body without prejudice later on to moving on to a resolution of the Padilla proposal. So, may we request Commissioner Garcia to state formally his proposal?

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Garcia is recognized.

MR. GARCIA: "THE CIVILIAN HOME DEFENSE FORCES SHALL BE DISMANTLED."

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Rodrigo is recognized.

MR. RODRIGO: May I ask a question? In case the Garcia amendment is voted upon favorably, can we still vote

on the Gentleman's amendment?

MR. SUAREZ: Yes, because when the Gentleman says "your amendment," is he referring to the Padilla amendment?

MR. RODRIGO: The Padilla et al. amendment.

MR. SUAREZ: Yes, Mr. Presiding Officer.

MR. RODRIGO: In case both are approved, which will prevail? In the Garcia amendment, the dismantling is unconditional, whereas, in the Padilla et al. amendment, the dismantling is conditional.

MR. SUAREZ: It can go together except that in the Padilla amendment, probably the phrase "including civilian home defense forces" would have to be eliminated if the Garcia proposal is favorably acted upon, Mr. Presiding Officer.

MR. RODRIGO: But in the Padilla et al. amendment, the dismantling is conditional if it is not consistent with the citizen armed force. And, not only that. It says "where appropriate, it can be converted to regular forces."

MR. SUAREZ: Yes. That is the meaning. What the Gentleman is saying is the correct conclusion, Mr. Presiding Officer.

MR. RODRIGO: So, if we vote in favor of the Garcia amendment and it is approved, then this provision in the Padilla et. al. amendment about the civilian home defense forces will have to be deleted.

MR. SUAREZ: Maybe recast, but not necessarily deleted, Mr. Presiding Officer.

MR. RODRIGO: To be consistent with the Garcia proposal of unconditional dissolution and dismantling.

MR. SUAREZ: Right. Because in the Garcia proposal, there is no such phrase as "where appropriate can be converted to a regular force."

MR. RODRIGO: So, I know how to vote now.

MR. SUAREZ: Thank you.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Davide is recognized.

MR. DAVIDE: May I introduce an amendment to the amendment of Commissioner Garcia? The amendment is merely to insert the following: "OR OTHER SIMILAR GROUPS," because there was the fear that it might resuscitate under another name.

THE PRESIDING OFFICER (Rev. Rigos): Does the Commissioner mean "AND OTHER . . ."

MR. DAVIDE: "OR OTHER SIMILAR GROUPS."

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Garcia is recognized.

MR. GARCIA: Accepted.

THE PRESIDING OFFICER (Rev. Rigos): Mr. Floor Leader, are we ready to vote?

MR. RAMA: There are no more registered speakers.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I introduce an amendment, Madam President?

THE PRESIDING OFFICER (Rev. Rigos): Mr. Presiding Officer.

MR. SARMIENTO: Was the Davide amendment accepted, Mr. Presiding Officer?

THE PRESIDING OFFICER (Rev. Rigos): It was accepted.

MR. SARMIENTO I therefore withdraw my amendments, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Will the Gentleman restate the proposal of Commissioner Garcia?

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Padilla is recognized.

MR. PADILLA: I believe our proposal should first be voted upon because this is an amendment to the amendment. In case it is lost, then we take up the Garcia amendment.

THE PRESIDING OFFICER (Rev. Rigos): I thought this procedure was agreed upon during the recess. What does the committee say?

MR. SUAREZ: We suggested that the Garcia proposal be first voted upon. And then without prejudice to the second sentence in the Padilla et al. amendment, we are covering this matter.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner de Castro is recognized.

MR. DE CASTRO: I believe that the amendment to the amendment of Commissioner Padilla should first be voted upon. The amendment of Commissioner Padilla is an amendment to the proposal of Commissioner Garcia. Therefore, it has the priority to be voted upon, meaning, the Padilla amendment.

MR. RODRIGO: Mr. Presiding Officer, I really think that the Padilla et al. amendment should be voted upon first. It is an amendment to the amendment. Since the beginning, it has been an amendment to the amendment, and I made that stand.

Another thing, in fairness to the Commissioners, we do not want to appear as voting against the dismantling of home defense forces. And, if we vote against the Garcia amendment, it would appear that we are voting against the dismantling or the reorganization of the civilian home defense forces. While in the Padilla amendment, it is spelled out that we are not in favor of what the CHDF is doing now. We agree that something should be done about it — that it should be dismantled if it is not consistent with the citizen armed force, and, where appropriate, it can be converted to regular forces. That does not place us in the very difficult situation where we can be misunderstood as voting against the Garcia amendment, and that we want this CHDF to remain.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Maambong is recognized.

MR. MAAMBONG: Suggestion from the committee, Mr. Presiding Officer. I think we can resolve the issue very easily without doing violence to our procedures. All that somebody should do is to propose an amendment to the amendment of Commissioner Garcia by incorporating the second sentence of the amendment of Commissioner Padilla, then we will put that to a vote. That will solve the whole problem.

MR. GARCIA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Garcia is recognized.

MR. GARCIA: I think it is rather clear that the choice is between unconditional dismantling of the civilian home defense forces or its conditional dismantling. I think nobody has been pushed to the wall to say whether he is for or against it. I think the options are rather clear. So, therefore, my proposal is simply that — should we push for the unconditional dismantling and therefore the provision which I read, "The civilian home defense forces or other similar groups shall be dismantled," or the other proposal which is a conditional dismantling. That is why I would like that that clear concept first be voted upon.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Davide is recognized.

MR. DAVIDE: Before we could vote intelligently on this, I would just like to pose this query. To what extent is the civilian home defense forces consistent with the citizen armed force established under the Constitution, and to what extent is it not? Because if to a certain extent it is not, then it will be embodied in the Padilla amendment. To the extent that it is not consistent in any way, it will be for the Garcia proposal.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Ople is recognized.

MR. DAVIDE: In other words, my point is, that if anyone can show that to a certain extent the CHDF is inconsistent and to another extent it is consistent, then we can take the Padilla proposal as an exception to the general rule established by the Garcia proposal.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Ople is recognized.

MR. OPLE: The phrase that has been mentioned being my specific contribution, may I say that this contemplates a situation where a judgment will have to be made by the President as Commander-in-Chief or by the Congress of the Philippines, as to whether when the citizen armed force is already under implementation, whether the CHDF is consistent or not, or other paramilitary forces are consistent or not with the citizen armed force. My own personal opinion now is that they will be judged inconsistent. This is also one way of meeting the concern earlier expressed by Commissioner Aquino, and in the spirit of the last sentence of this paragraph, giving some flexibility to the President of the Philippines as Commander-in-Chief, as well as to the Congress. I agree with Commissioner Rodrigo's point that he has just vigorously asserted, that we ought to be able to concede to the President of the Philippines and to the Congress the same capability for upholding the national interest that animates the Members of this Commission.

And so, when we say, consistent or inconsistent with the citizen armed force, we are in effect leaving the flexibility to the President or to Congress to determine at the proper time, after the adopting of this Constitution, whether any or all of these paramilitary forces are consistent or inconsistent with the citizen armed force.

As far as I am concerned and this is my parting remark, Mr. Presiding Officer, what is important is the citizen armed force, the citizen army that we have approved as the foundation of a new Armed Forces of the Philippines. This means the distinction between citizen and soldier disappears at that point, like in the case of the Swiss army that I pointed out — one can no longer distinguish the people from their own army because they are one and the same. I think that when we approve the Padilla amendment, in effect we will be indorsing this view as well, that the citizen armed force is an eminently worthy provision of this Constitution which ought to be implemented, and where paramilitary forces are inconsistent with that, then they should be immediately abolished; or in the case of worthy units, be absorbed or converted into the regular forces.

Thank you.

MR. GARCIA: Mr. Presiding Officer, just two sentences.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Garcia is recognized.

MR. GARCIA: My formulation is an unequivocal statement of the negative historical role of the CHDF and, therefore, consigns it to the fact that it is essentially irredeemable. That is all.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Monsod is recognized.

MR. MONSOD: I just want to take exception to the statement because there are some very reliable surveys, like the Bishops-Businessmen Conference of the Philippines which said that there are some units that are doing their job well. In fairness, I believe where there are many abuses, we cannot make an unconditional and absolute sweeping statement consigning them to dissolution.

THE PRESIDING OFFICER (Rev. Rigos): We have not yet settled which proposal to consider — the Garcia proposal or the Padilla proposal.

MR. DE CASTRO: I move, Mr. Presiding Officer, that the amendment to the amendment be taken first.

THE PRESIDING OFFICER (Rev. Rigos): This is the proposal of Commissioner Padilla.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Before we vote on the Padilla amendment indorsed by several Commissioners, may I just say a few words. Although I am listed as one of the endorsers or coauthors, I have my reservations with respect to this amendment. May I just briefly state my reasons? The first sentence speaks of ". . . OTHER ARMED GROUPS NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY SHALL BE DISMANTLED." Mr. Presiding Officer, we have private armies or private groups recognized by duly constituted authorities but these groups are guilty of human rights violations. For instance, the Lost Command, this is a paramilitary unit which made it to the headlines following alleged involvement in the massacre of 45 men in Las Navas, Northern Samar way back in 1982. The Lost Command is headed by an extendee Philippine Constabulary, Col. Carlos Lademora. Lademora was given a new assignment as regional commander of the CHDF, the civilian home defense forces. Are we made to understand now, Mr. Presiding Officer, that this Lost Command, a private group though guilty of human rights violations, will not be dismantled because it is recognized by duly constituted authorities?

Another point, Mr. Presiding Officer. The second sentence reads: "CIVILIAN HOME DEFENSE FORCES, NOT CONSISTENT WITH THE CITIZEN ARMED FORCE ESTABLISHED IN THIS CONSTITUTION . . ." I pointed out this morning, Mr. Presiding Officer, that the civilian home defense forces are consistent with the citizen armed force. I mentioned Executive Order No. 1012 amending P.D. No. 1016 and further amending P.D. No. 1242. These laws clearly provide that the Ministry of National Defense has operational control, screening appointment and training of CHDF. And, furthermore, under these laws the CHDF has been formally integrated into the military establishment by utilizing them in the integrated security defense plan. Therefore, Mr. Presiding Officer, it being consistent with the citizen armed force under this section, it will not be dismantled, but we have proofs to show that the CHDF is guilty of the 64 percent human rights violations in our country. This is the statement revealed to us today by the PCHR (Presidential Committee on Human Rights).

Another point, Mr. Presiding Officer, should we forget the Escalante massacre where 21 demonstrators, mostly

peasants were killed? Should we forget the case of Fr. Tulio Favali, a Catholic Italian priest who was murdered in cold blood by the Manero brothers, members of the civilian home defense forces? Should we forget, Mr. Presiding Officer, the recent resolution passed by the OICs condemning the CHDFs asking for the dismantling of these forces? Should we forget, Mr. Presiding Officer, the resolution passed just recently by several provinces clamoring for the dismantling of CHDFs? And, Mr. Presiding Officer, in 1985, one in five salvaging cases was committed by the civilian home defense forces. And these atrocities consist of beheading ordinary citizens, mutilation and chopping of dead bodies into pieces and eating them. Should we tolerate this kind of abuses in our midst?

That is why my humble submission, Mr. Presiding Officer, is that we should seek for the dismantling of the CHDF. This is a national cancer, a national maladay. Should we turn a deaf ear to the clamor of our people in the countryside and rural areas?

So, Madam President, I am expressing my reservations with respect to this Padilla amendment.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

I am not defending the violations of human rights of CHDFs or even regular officers and men of the armed forces. But I would like only to give due process so enshrined in our Constitution to those supposedly violating human rights. When we say that they are guilty of violation of human rights, there must be a court of justice that must have found them guilty as such, because due process is the very essence of the Bill of Rights in our Constitution. Let us not forget that the armed forces is aware that there are scalawags in the CHDF, just as there are scalawags in the regular armed forces. Let us not forget also that very recently, four regular members of the armed forces were sentenced to death by musketry by the Military Commission. This is to show, fellow Commissioners, that our armed forces, the New Armed Forces of the Philippines, is bent on cleaning and making good quality of all its members.

When we talk of those guilty of human rights, please let us not talk in general terms. Let us be specific because they are looking for due process. And if due process is given them, I am sure the armed forces will not hesitate to sentence them to death by musketry, if found guilty. So, Mr. Presiding Officer, while I always say: "Sa lahat ng gubat ay may ahas. Dito sa ating Komisyon, hindi natin masasabing walang ahas. Ito ay isang gubat din. Kaya nga lang, maaaring may gubat na maraming ahas." And so, the armed forces is cleaning itself. Kung ang kanilang gubat ay maraming ahas, ito naman ay nililinis nila.

Thank you, Mr. Presiding Officer.

MR. TINGSON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Gascon is recognized.

MR. GASCON: Mr. Presiding Officer, I would like to object to the motion of Commissioner de Castro; instead I would like to make a motion that we vote on Commissioner Garcia's amendment first. Why? Because I feel that the issue here is very important. And for purposes of clarity, the choices are: first, a categorical statement for the dismantling of the CHDF; and the second is conditional.

If we vote on the conditional, that precludes the other one. So, Mr. Presiding Officer, I would like to object to the motion and make that counter-motion.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Tingson is recognized.

MR. TINGSON: Mr. Presiding Officer, if the Padilla amendment is brought to the floor again I would like to speak in favor of this.

THE PRESIDING OFFICER (Rev. Rigos): The motion now is for the body to act first on the Padilla proposal.

Are we ready to vote?

MR. GASCON: What about my objection, Mr. Presiding Officer?

THE PRESIDING OFFICER (Rev. Rigos): We can vote against the motion, if the Gentleman is objecting.

MR. GASCON: We will be voting on the motion of Commissioner de Castro.

MR. DE CASTRO: Mr. Presiding Officer, before we proceed to vote on whether we shall vote on the Padilla amendment or not, let us check the Rules on amendment to amendments, Section 26.

MR. OPLE: If we are voting, Mr. Presiding Officer, under the Rules, can this be interrupted?

VOTING

THE PRESIDING OFFICER (Rev. Rigos): Commissioner de Castro was the one who made the motion.

As many as are in favor of the motion of Commissioner de Castro that we act first on the Padilla proposal, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

The results show 14 votes in favor and 13 against; we will act on the Padilla proposal first.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, may I ask that Commissioner Tingson be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Tingson is recognized.

MR. TINGSON: I should like to speak a few words, Mr. Presiding Officer, in favor of the Padilla amendment. First of all, I also would like to say that I am in accord with the sentiment of the Garcia amendment — the dissolution of the civilian home defense forces.

Mr. Presiding Officer, I come from a province where we have private armies run by political and economic warlords. I cannot overemphasize the fact that in that province where I come from, there is constant raping of democracy because the political and the economic warlords with the private armies at their disposal do not hesitate to use them and suppress the will of the people especially at election time. They buy votes and as soon as they are elected to such an office, they use their private armies to protect their own economic empire. I am from that province where the political and economic warlords monopolize economic developments and opportunities, so much so that there is no such thing really as middle class in my province. The gap between the rich and the poor is so obvious, the poor becoming miserably poorer and the rich despicably getting more filthy rich. Now, I am happy that we changed that phrase, instead of "religious private armies," we are now saying "OF FANATICAL SECTS." This is no slur against established religious organizations in our country. We are only referring to the people who are carrying the name of religion to advance their fanatical ideas. There is no rhyme or reason to their existence, and if they have private armies, I am also in favor of dissolving them. And so, I am going to vote for the Padilla amendment.

Thank you very much.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Jamir be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Jamir is recognized.

MR. JAMIR: Will Commissioner Tingson yield to a few questions, Mr. Presiding Officer?

MR. TINGSON: Gladly so, Mr. Presiding Officer.

MR. JAMIR: Will the Gentleman please tell us what these fanatical sects mentioned in this proposal are?

MR. TINGSON: Mr. Presiding Officer, I objected to the original wording which was "religious armies," because I did not like it. And so, I expressed my deep-seated opposition to that, and I am glad it is changed now to "ARMIES OF FANATICAL SECTS." I understand there are organizations in our country today which are not really classified as established religious organizations, probably, not recognized by the sect that are carrying on clandestine activities and that many of these fanatical religious organizations are armed to the teeth. If I am not mistaken, I think Commissioner Monsod knows something about them, Mr. Presiding Officer.

MR. JAMIR: My question is directed to Commissioner Tingson. May I know — I will repeat — may I know what are these fanatical sects mentioned here which the Gentleman favors?

MR. TINGSON: I am not too sure whether it is proper to mention their names, Mr. Presiding Officer.

But I think it is of common knowledge that there are quite a few across our country that are existing.

MR. JAMIR: It is not common because I do not know. That is why I am asking. And besides, I think it is proper to mention them here because we are considering a constitutional provision. We are supposed to speak here with parliamentary immunity so that we will not be questioned for whatever we say outside the halls of this Commission.

MR. TINGSON: Mr. Presiding Officer, may I please ask Commissioner Monsod to answer that?

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Monsod is recognized.

MR. MONSOD: Perhaps, Mr. Presiding Officer, we can solve that problem because I was asking to be recognized. I was going to ask Commissioner Padilla if we can delete the phrase "OF POLITICAL OR ECONOMIC WARLORDS OR OF FANATICAL SECTS" because it is just a qualifying phrase which does not sound, on second thought, does not sound constitutional. So if we just say "PRIVATE ARMIES AND OTHER ARMED GROUPS NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITIES SHALL BE DISMANTLED" perhaps, that might solve the problem.

MR. JAMIR: If the proposal to delete this word here will be accepted, then, I will withdraw asking Commissioner Tingson further on the matter.

THE PRESIDING OFFICER (Rev. Rigos): What does Commissioner Padilla say?

MR. PADILLA: I accept, Mr. Presiding Officer. The word "ECONOMIC" was suggested by Commissioner Rigos and he is willing to delete it.

THE PRESIDING OFFICER (Rev. Rigos): All right.

MR. PADILLA: The phrase "FANATICAL SECTS" was suggested by Commissioner Monsod and he wants to delete it. So, I accept.

MR. JAMIR: I would like to ask one more question of Commissioner Tingson, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Maambong is recognized.

MR. MAAMBONG: Is it not the motion of Commissioner Monsod, to delete starts from the phrase "OF POLITICAL OR ECONOMIC WARLORDS," not only "FANATICAL SECTS"? Is that not correct?

MR. MONSOD: Yes, Mr. Presiding Officer.

MR. MAAMBONG: So, may we have the response of Vice-President Padilla on that?

MR. PADILLA: I already said I accept the deletion, so it will read: "PRIVATE ARMIES AND OTHER armed groups NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY shall be dismantled . . ."

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Jamir is recognized.

MR. JAMIR: I would like to ask Commissioner Tingson one more question, with the Chair's permission.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Maambong is recognized.

MR. MAAMBONG: Is it not that the motion, the request to delete of Commissioner Monsod starts from "OF POLITICAL OR ECONOMIC WARLORDS," not only of "FANATICAL SECTS"? Is that not correct?

MR. MONSOD: Yes, Mr. Presiding Officer.

MR. MAAMBONG: So, may we have the response of Vice-President Padilla on that?

MR. PADILLA: I already said I accept the deletion, so it will read: "PRIVATE ARMIES AND OTHER armed groups NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY shall be dismantled . . ."

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Jamir.

MR. JAMIR: I would like to ask Commissioner Tingson one more question, with the Chair's permission.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Maambong is recognized.

MR. MAAMBONG: I think if there is clarification, it should be from the proponent. And in the paper that we received, Commissioner Tingson is not a proponent. So, how could he defend this formulation? I would suggest to Honorable Jamir to address his query to Vice-President Padilla, the main proponent.

MR. JAMIR: But it was Commissioner Tingson who delivered a speech with oratorical flavor.

THE PRESIDING OFFICER (Rev. Rigos): Does the Gentleman want to interpellate Mr. Tingson on his speech? Let us hear the question of Commissioner Jamir.

MR. JAMIR: Will the Gentleman please tell us under what circumstances paramilitary forces or units will be inconsistent with the citizen armed force?

THE PRESIDING OFFICER (Rev. Rigos): Was that a part of Commissioner Tingson's speech?

MR. TINGSON: No, Mr. Presiding Officer, I did not touch on that.

MR. JAMIR: I have no more questions. (Laughter)

THE PRESIDING OFFICER (Rev. Rigos): The Floor Leader is recognized.

MR. MONSOD: Mr. Presiding Officer.

MR. RAMA: The interpellator has taken his seat. I suppose he is not insisting on his question. May I ask that Commissioner Monsod be recognized.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Monsod is recognized.

MR. MONSOD: There is one instance where it may be inconsistent, Mr. Presiding Officer. I understand that the philosophy behind the CHDF unit is that they will defend their own communities. If I understand correctly, the Manero brothers, for example, committed abuses because there was violation of the intent of their use. They were being used by military forces as supporting forces in other areas than the communities in which they were supposed to serve.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Quesada is recognized.

MS. QUESADA: I would just like to put on record the importance of having the mechanism by which the members of the civilian home defense forces, which according to Commissioner Monsod need not all be dismantled where appropriate, can be converted to regular forces. They could undergo a very thorough psychiatric test because we know for a fact that experience with torture has a way of dehumanizing people. Unless they are really cleared by this psychometric or whatever psychiatric test, they should not be allowed to use guns because we know what it is to hold guns and we have seen the victimization of many of our people in the countryside. So, should this be accepted by the body, which I hope will not, we hope that that mechanism will never be forgotten in the conversion of these people into regular forces.

MR. RAMA: Mr. Presiding Officer, the last registered speaker is Commissioner Davide.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

This is an amendment. The first is: Substitute "not recognized by duly constituted authority" with the following: "WHICH SEEK TO ATTAIN THEIR GOALS THROUGH VIOLENCE OR OTHER UNLAWFUL MEANS:" And then delete the comma (,) and all the words that follow after "dissolved." So the entire section will read: "Private armies and other armed groups WHICH SEEK TO ATTAIN THEIR GOALS THROUGH VIOLENCE OR OTHER UNLAWFUL MEANS shall be dismantled. All paramilitary forces, including civilian home defense forces, not consistent with the citizen armed force established in this Constitution shall be dissolved."

THE PRESIDING OFFICER (Rev. Rigos): May we have Commissioner Padilla's comments on this.

MR. PADILLA: We regret we cannot accept the proposed amendments.

MR. DAVIDE: May I be allowed to explain the first proposal about "other armed groups." The deletion is on "not recognized by duly constituted authority." Mr. Presiding Officer, if we maintain "not recognized by duly constituted authorities," there is a possibility that these other armed groups may continue simply because of an implied recognition by an authority. It should be stated here that advisedly this section as proposed does not speak even of the duly constituted authority. It speaks only of duly constituted authority. What is that authority? Is it the military? Is it the Integrated National Police? The absence of the article "the" before "duly constituted authority" makes this proposal very dangerous because it can allow the existence of an armed group simply because of an accorded recognition by that authority which is not even mentioned here. But if we will say "the duly constituted

authority," that would be much better. So, precisely because of the danger that we want now to eliminate, all these armed groups, if these armed groups seek to attain their goals through violence of other unlawful means and no constituted authority can recognize that.

Now, in the matter of the deletion of "where appropriate, converted to regular forces," I would say that this is a very cleverly worded statement because again, civilian home defense forces established or determined not to be consistent with citizen armed force can easily be allowed to continue under the guise of being regular forces. So in short, we will now be legalizing a civilian home defense or a paramilitary force inconsistent with the civilian armed force. So we are conceding not only plain legality, but constitutionality.

And so I pray, that to make the language very clear and to make the objective beyond question, the proposals be accepted.

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): I am not sure whether the body is too clear about Commissioner Davide's proposal. Could he read it again slowly?

MR. DAVIDE: May we vote on it individually since there are two?

THE PRESIDING OFFICER (Rev. Rigos): Did the Gentleman reduce it to two sentences?

MR. DAVIDE: No, not two sentences, two deletions.

THE PRESIDING OFFICER (Rev. Rigos): What is the first one?

MR. DAVIDE: The first is after "groups" on the third line.

THE PRESIDING OFFICER (Rev. Rigos): Yes.

MR. DAVIDE: Delete the words "not recognized by duly constituted authority," and substitute it with "WHICH SEEK TO ATTAIN THEIR GOALS THROUGH VIOLENCE OR OTHER UNLAWFUL MEANS."

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Padilla is recognized.

MR. PADILLA: We inserted the words "duly constituted authority" — per suggestion of the Chief Justice, the word "duly" — and I think that is clear. If they will ask what is that particular authority, it may be the Armed Forces of the Philippines under the Chief of Staff, or the Ministry of National Defense under the President as Commander-in-Chief of the armed forces.

But when we insert the phrase that is being suggested — "who pursue their goals by violence or other means not allowed by law" — that is even more vague and more difficult in distinguishing what private army and other armed forces or groups should be dismantled. Otherwise what? We still have to present evidence as to what their goals are. We have the President as Commander-in-Chief of the armed forces. We have the Department of Defense. We have the Armed Forces of the Philippines; and there are certain authorities within the armed forces, like for example, the Philippine Constabulary that authorizes the private security guards. These are the duly constituted authority.

Commissioner Davide wants to use the word "the." What is the difference? That reminds me, when I was suggesting the elimination of the word "highest" — "highest priority" — the explanation was that it did not say "THE highest priority." It seems that we are going back to semantics.

MR. NOLLEDO: Semantics.

MR. PADILLA: In my opinion, "duly constituted authority" is clear.

HE PRESIDING OFFICER (Rev. Rigos): Commissioner Nolleddo is recognized.

MR. NOLLEDO: Thank you, Mr. Presiding Officer.

Will Commissioner Padilla yield to some questions? May I know the meaning of "recognized" in the Gentleman's proposal?

MR. PADILLA: Recognized, authorized, approved, licensed — all those are included in the word "recognized."

MR. NOLLEDO: I understand that recognition may be made expressly or impliedly, am I correct?

MR. PADILLA: No, it must be always in writing or some kind of a document. How can it be an oral recognition?

MR. NOLLEDO: No, there is an important implication.

MR. PADILLA: That will not be a duly constituted authority if it is only oral recognition.

MR. NOLLEDO: No, I am not talking of whether it is oral or not because, for example, if the armed forces will not dismantle a patently unlawful armed group for a considerable length of time, that is an implied recognition. Is that contemplated in the Gentleman's proposal?

MR. PADILLA: No, Mr. Presiding Officer. Why are we going to put in other concepts and other thoughts that are not included in the provision?

MR. NOLLEDO: Precisely, I am asking because there may come a time when the armed forces will recognize impliedly the existence of such. When the Gentleman says, "recognized by the duly constituted authority," it is recognizable.

MR. PADILLA: The recognition need not be oral nor implied.

MR. NOLLEDO: Recognition may mean implied recognition or express recognition. I am saying this because I support the Davide amendment as clearer than the Gentleman's proposal.

MR. PADILLA: Yes, but the Davide amendment does not change the word "recognize." It only says "recognized by the."

THE PRESIDING OFFICER: The Floor Leader is recognized.

MR. NOLLEDO: Just one sentence, Mr. Presiding Officer.

My interpellation is designed to avoid any misunderstanding, not to disparage the Gentleman's proposal. That is why, I would like to generate from the Gentleman the real meaning of "recognition." I understand from the Gentleman now that it means only "express recognition" and in writing.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, now we can vote on this first sentence. It seems that Commissioner Padilla has rejected the amendment to his amendment. So, I propose that we vote on the amendment to the amendment proposed by Commissioner Davide.

THE PRESIDING OFFICER (Rev. Rigos): Will the Floor Leader read those words again?

MR. RAMA: May I ask Commissioner Davide to present his amendment to the amendment?

MR. DAVIDE: Thank you, Mr. Presiding Officer.

It is just to substitute the words "not recognized by duly constituted authority" with the following: "WHICH SEEK TO ATTAIN THEIR GOALS THROUGH VIOLENCE OR OTHER UNLAWFUL MEANS."

THE PRESIDING OFFICER (Rev. Rigos): So then, it will read: "PRIVATE ARMIES AND OTHER ARMED GROUPS WHICH SEEK TO ATTAIN THEIR GOALS THROUGH VIOLENCE OR OTHER UNLAWFUL MEANS . . ."

Now, how will it read?

MR. DAVIDE: ". . . shall be dismantled."

THE PRESIDING OFFICER (Rev. Rigos): ". . . shall be dismantled."

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Rodrigo is recognized.

MR. RODRIGO: Before we vote on that amendment, may I ask one or two questions? Suppose a person gathers a group of 50 in a certain locality outside the metropolitan area, arms these 50 people but they do not engage in violence. He says, "This is only for my defense." Will that be dismantled?

MR. DAVIDE: If it is for self-defense and the arms used are licensed, I do not think it would be subject to dismantling.

MR. RODRIGO: Suppose, instead of 50, it is 100 and all of them have licensed arms and the person says, "No, I am not going to use this to achieve any purpose through violence. This is only for my protection." Will that group be dismantled?

MR. DAVIDE: I do not think so under that. When we start to graduate situations, we have to consider the circumstances attendant in a particular situation.

MR. RODRIGO: How do we prove that the purpose is to achieve one's end by violence? Purpose is something in the mind. And what evidence do we present?

MR. DAVIDE: We have, for instance, specific groups now which seek, for instance, to overthrow the government by violence; they armed themselves for that particular purpose. We have the so-called Lost Command. As a matter of fact, this will seek to include any other group which might disrupt the performance of public functions or the exercise of public duties.

MR. RODRIGO: Well, we prove motive by overt acts. Suppose that somebody gathers a group of 100, arms them with licensed arms, but there is no overt act, that would not come under this prohibition.

MR. DAVIDE: The mere fact that they are armed is an indication that it is for something else.

MR. RODRIGO: Yes, for defense.

MR. DAVIDE: For defense?

MR. RODRIGO: Yes, for his defense, that is what he says.

MR. DAVIDE: It may be inquired who are the enemies. If there are no enemies, it cannot be for defense.

MR. RODRIGO: Well, let us say it is on a logging concession and this is for my defense. How can we prove that it is not for his defense?

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): The Floor Leader is recognized.

MR. RAMA: The issue has been belabored already. So, may I ask that we take a vote on the amendment to the amendment presented by Commissioner Davide.

VOTING

THE PRESIDING OFFICER (Rev. Rigos): The amendment reads: "WHICH SEEK TO ATTAIN THEIR GOALS THROUGH VIOLENCE OR OTHER UNLAWFUL MEANS."

As many as are in favor, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

The results show 11 votes in favor and 16 against; the proposed amendment to the amendment is lost.

MR. RAMA: Mr. Presiding Officer, unless Commissioner Davide insists on his second amendment we will have to take a vote on his amendment to the amendment for the second sentence.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Davide is recognized.

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer, the committee suggested earlier to the Floor Leader that we should take the two sentences one by one.

MR. RAMA: Yes.

MR. MAAMBONG: I think we should now vote on the first sentence and that we consider the second amendment to the second sentence.

MR. RAMA: Well, that is the runabout way, which is the same. Anyway if the Gentleman insists, we can vote on the first sentence.

THE PRESIDING OFFICER (Rev. Rigos): The Floor Leader is recognized.

MR. RAMA: I move that we vote on the first sentence as framed by Commissioner Padilla.

THE PRESIDING OFFICER (Rev. Rigos): How does it read?

MR. PADILLA: It reads: "PRIVATE ARMIES AND OTHER GROUPS NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY SHALL BE DISMANTLED."

VOTING

THE PRESIDING OFFICER (Rev. Rigos): That is the first sentence. Are we ready to vote?

As many as are in favor, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Five Members raised their hand.)

As many as are abstaining, please raise their hand. (Few Members raised their hand.)

The results show 18 votes in favor, 5 against and 9 abstentions; the first sentence is approved.

MR. RAMA: Mr. Presiding Officer, I move that we vote on the second sentence. I understand that Commissioner Davide is no longer insisting on his amendment to the amendment.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Davide is recognized.

MR. DAVIDE: I confirm the statement of the Floor Leader.

MR. RAMA: So, may I ask that Commissioner Padilla be recognized to state that amendment.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Padilla is recognized.

MR. PADILLA: The next sentence, with Commissioners Ople, Monsod and a few others as authors, reads: "ALL PARAMILITARY FORCES INCLUDING CIVILIAN HOME DEFENSE FORCES NOT CONSISTENT WITH THE CITIZEN ARMED FORCE ESTABLISHED IN THIS CONSTITUTION SHALL BE DISSOLVED OR WHERE APPROPRIATE CONVERTED TO REGULAR FORCES."

THE PRESIDING OFFICER (Rev. Rigos): Commissioner Garcia is recognized.

MR. GARCIA: I would like to read an amendment by substitution.

THE PRESIDING OFFICER (Rev. Rigos): All right.

MR. GARCIA: Thank you.

The amendment reads: "CIVILIAN HOME DEFENSE FORCES AND OTHER SIMILAR GROUPS SHALL BE DISSOLVED."

THE PRESIDING OFFICER (Rev. Rigos): I guess the Gentleman need not repeat the arguments; we have debated on that long enough. Mr. Floor Leader, are we ready to vote on this proposed amendment?

MR. RAMA: Yes, Mr. Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer, please.

THE PRESIDING OFFICER (Rev. Rigos): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

The dissolution of the CHDF and other similar groups proposed by Commissioner Garcia is fraught with danger. I would like to inform the body that as of now the armed forces do not have the sufficient strength to fight insurgency, the reason being that it lacks the necessary funds to increase its strength. They are using the CHDF, which originally has the strength of 70,000 but is now about 66,000 after having been screened and selected by the armed forces, according to my information. So, the immediate dissolution of the CHDF as authorized and recognized in the two presidential decrees and executive orders cited by Mr. Sarmiento is really fraught with danger. We may find ourselves in a very tight situation, particularly the armed forces, unless and until sufficient amount can be given to them.

I agree with the formulation of the Padilla amendment, the reason being that there is enough leeway within the discretion of the President to do something.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): The Floor Leader is recognized.

MR. RAMA: The body is ready to vote.

MR. MONSOD: Mr. Presiding Officer, point of order.

THE PRESIDING OFFICER (Rev. Rigos): What is the point of order?

MR. MONSOD: Mr. Presiding Officer, earlier we voted on whether we should take the Padilla amendment first before the Garcia amendment, and we voted that we will vote first on the Padilla amendment. Now, Commissioner Garcia is suggesting an amendment by substitution of the same amendment that he had, which we already decided will be handled after the Padilla amendment.

THE PRESIDING OFFICER (Rev. Rigos): That is correct.

MR. MONSOD: So, I believe that that amendment by substitution is not in order — that we should first vote on the Padilla amendment now.

THE PRESIDING OFFICER (Rev. Rigos): The Chair sustains the point of order.

MR. SARMIENTO Mr. Presiding Officer, before we vote, with due respect to the authors of this proposal, may I ask that my name be deleted as one of the coauthors of this proposal?

THE PRESIDING OFFICER (Rev. Rigos): The Gentleman's name has been deleted.

VOTING

THE PRESIDING OFFICER (Rev. Rigos): Are we now ready to vote on this?

As many as are in favor, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 15 votes in favor, 12 against and 1 abstention; the second sentence is approved.

Does the Floor Leader want to move for the approval of the entire section?

MR. RAMA: I move that we approve the entire section.

NOMINAL VOTING

MR. SARMIENTO: May I ask for a nominal voting, Mr. Presiding Officer?

THE PRESIDING OFFICER (Rev. Rigos): The body will now vote on the entire Section 9, as amended, and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Bernas.....

Alonto Rosario Braid Abstain

Aquino Abstain Calderon

Azcuna Castro de Yes

Bacani Yes Colayco

Bengzon Concepcion

Bennagen No

MR. CONCEPCION: May I explain my vote?

THE PRESIDING OFFICER (Rev. Rigos): The Gentleman has three minutes.

COMMISSIONER CONCEPCION EXPLAINS HIS VOTE

MR. CONCEPCION: My vote is qualified as to the second sentence. I am against the last phrase "OR WHERE APPROPRIATE, CONVERTED TO REGULAR FORCES."

THE PRESIDING OFFICER (Rev. Rigos): But is the Gentleman's vote yes?

MR. CONCEPCION: For the first sentence, but I did not vote on the second.

THE PRESIDING OFFICER (Rev. Rigos): We are now voting on the whole section, the first and second sentences.

MR. CONCEPCION: In that case, I would abstain.

THE PRESIDING OFFICER (Rev. Rigos): The Gentleman is abstaining.

THE SECRETARY-GENERAL, reading:

Davide.....

MR. DAVIDE: May I be allowed to explain, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Please proceed.

COMMISSIONER DAVIDE EXPLAINS HIS VOTE

MR. DAVIDE: For the reasons I gave in supporting my two proposals to delete, I am abstaining.

THE SECRETARY-GENERAL, reading:

Foz Yes

Yes Gascon

Garcia No

COMMISSIONER GASCON EXPLAINS HIS VOTE

MR. GASCON: Mr. Presiding Officer, let me explain my vote. I feel the second sentence is constitutionalizing the civilian home defense forces. Because of that, I am voting against it.

THE SECRETARY-GENERAL, reading:

Guingona

No

Jamir

MR. JAMIR: May I explain my vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos): Please proceed.

COMMISSIONER JAMIR EXPLAINS HIS VOTE

MR. JAMIR: Like Chief Justice Concepcion, I voted for the first, but my heart is against the second. However, prudence dictates that I vote yes for the entire provision.

THE SECRETARY-GENERAL, reading:

Laurel
Natividad
Lerum Nieva Yes
Maambong Yes Nolleto
Monsod Yes

COMMISSIONER NOLLEDO EXPLAINS HIS VOTE

MR. NOLLEDO: May I explain my vote. I abstain. Mr. Presiding Officer, the second sentence has been terribly watered down. The first sentence is very vague because it connotes the possibility of private armies being recognized by duly constituted authorities.

Thank you, Mr. Presiding Officer.

THE SECRETARY-GENERAL, reading:

Ople

MR. OPLE: I vote yes, Mr. Presiding Officer. May I explain briefly the reason for this?

THE PRESIDING OFFICER (Rev. Rigos): Please proceed.

COMMISSIONER OPLE EXPLAINS HIS VOTE

MR. OPLE: In this reformulated Section 9 principally authored by Senator Padilla, joined by others including myself, we have been able to merge several streams of proposals not inherently contradictory into a constitutional mandate that will result in the dissolution of private armies and other armed groups not recognized by duly constituted authority. At the same time, may I note that the civilian home defense forces became explicit in this second sentence because of a proposal by Commissioner Garcia and some others who wanted the civilian home defense forces precisely made explicit instead of merely tacit under the heading of paramilitary forces.

I should like to correct the impression given earlier by Commissioner Sarmiento that the phrase "not consistent with the citizen armed force established in this Constitution" just about eliminates the CHDF from the reckoning of this section. I believe that the citizen armed force is the major innovation introduced by this Constitutional Commission as the new foundation of the Armed Forces of the Philippines, and certainly, I would much prefer the citizen armed force to take the place of the CHDF and other paramilitary forces with dubious records of responsibility in our countryside — the flexibility to the President, as Commander-in-Chief, and to the Congress is preserved. And so, I consider this a bold declaration of a policy against paramilitary forces, including the CHDF

and private armies. At the same time, I think it is a prudent act of this Constitutional Commission because having in mind the supreme importance of national security, we have not acted in haste or in reckless disregard of presidential power and the power of Congress to implement this section in a responsible and in a vigorous manner.

Thank you.

THE SECRETARY-GENERAL: May we have the Gentleman's vote.

MR. OPLE: I said yes at the beginning.

THE SECRETARY-GENERAL, reading:

Muñoz Palma Yes

Quesada

MS. QUESADA: May I explain my vote?

THE PRESIDING OFFICER (Rev. Rigos): Please proceed.

COMMISSIONER QUESADA EXPLAINS HER VOTE

MS. QUESADA: I vote no.

Sa palagay ko, ang nangyari ngayon ay isa na namang hindi pagtugon sa daing at sa iyak ng mamamayang Pilipino na nasa ating kanayunan. Sa palagay ko, hindi natin natugunan ang kanilang matagal nang hinihintay na magkaroon ng laya sa kanilang paghihirap na ni isa sa atin ay hindi nakaranas dito ngayon. Kaya ako ay nalulungkot sa ating pagboto ngayon. Sa aking palagay, marami ring malulungkot sa kanayunan.

THE SECRETARY-GENERAL, reading:

Rama

Yes Rodrigo Yes

Regalado Romulo Yes

Reyes de los Yes Yes Rosales

Rigos Yes Sarmiento

MR. SARMIENTO: May I briefly explain my vote, Mr. Presiding Officer?

THE PRESIDING OFFICER (Rev. Rigos): Please proceed.

COMMISSIONER SARMIENTO EXPLAINS HIS VOTE

MR. SARMIENTO: Tonight, I recall the victims of the Escalante massacre, I recall Father Favali and I recall the victims of the Tadtad members. So, I am voting against this amendment.

THE SECRETARY-GENERAL, reading:

Suarez

No

Sumulong Yes

Tadeo

COMMISSIONER TADEO EXPLAINS HIS VOTE

MR. TADEO: Nais ko lamang ipaliwanag ang aking boto.

Ang aking boto ay isang dumadagundong na hindi, no. Kami ang biktima ng CHDF. Kami ay nakatira sa kanayunan. Hindi kayo nakatira sa kanayunan; hindi ninyo nadarama ang aming kalagayan. Napakabigat ng aking kalooban at gusto kong lumuha. Ngunit gusto ko munang sagutin ang aking kaibigan, si Commissioner de Castro.

Ang problema ng insureksiyon ay hindi ang pagparami ng militar. Ang problema ng insureksiyon ay ang kakulangan at kawalan ng lupa — lupang nilikha ng Diyos para sa lahat ng kanyang mga anak na inangkin lamang ng iilang tao. Lalong nagtutumindi sa akin ang sinasabi ng Banal na Aklat: "Ang katalinuhan nila'y kamangmangan lamang sa akin." Sapagkat sinasabi Niya sa Genesis:

Ang kaalaman at ang karunungan hindi mo ginamit sa katubusan ng tao ay tulad sa bawal na puno na bawal ang bunga.

THE SECRETARY-GENERAL, reading:

Tan

Uka Yes

Tingson Yes Villacorta No

Treñas Villegas

SECOND ROLL CALL

THE PRESIDENT: The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Abubakar

Lerum

Alonto Natividad

Azcuna Regalado

Bengzon Rosales

Bernas Tan

Calderon Treñas

Colayco Villegas

Laurel

THE PRESIDING OFFICER (Rev. Rigos): The results show 18 votes in favor, 9 against and 5 abstentions.

The entire Section 9, as amended, is approved.

ADJOURNMENT OF SESSION

MR. RAMA: Mr. Presiding Officer, I move for adjournment until tomorrow at 9:30 a.m.

THE PRESIDING OFFICER (Rev. Rigos): The session is adjourned until tomorrow at 9:30 a.m.

It was 6:44 p.m.

[*] Appeared after the roll call.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.