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Friday, October 3, 1986

OPENING OF SESSION

At 10:03 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Yusup R. Abubakar.

Everybody remained standing for the Prayer.

MR. ABUBAKAR: With your permission, Madam President, I shall recite the Prayer, first in Arabic as originally conceived to show the beautiful lines it conveys, and then in English for its full meaning so that the Members of the Constitutional Commission would understand this Arabic original.

PRAYER

In the name of Allah, Most Gracious, Most Merciful
Praise be to Allah, Lord of the Universe
Most Gracious, Most Merciful
Master of the Day of Judgment
To Thee do we worship
And to Thee do we seek for help
Show us the right path
The Path of those to whom Thou hast bestowed Thy Grace
And not those whose path hast earned Thy Wrath
And those gone astray.
O Allah, give us Thy Blessings that this Constitution we are about to
finish shall appeal to men in their doubts and fear.
Help and put heart in them in moments of trials, and ordain for them laws
by which they could live a society, lives of purity, goodness and
peace.
Verily, when Allah intends a thing, His Command is "BE," and it is.
So glory be to Him in Whose Hands is the dominion of all things.
And to Him will you all be brought back. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar

Present Natividad Present

Alonto Present [*] Nieva Present

Aquino Present [*] Nollado Present [*]

Azcuna Present [*] Ople Present [*]

Bacani Present Padilla Present

Bengzon Present [*] Quesada Present

Bennagen Present Rama Present

Bernas Present [*] Regalado Present

Rosario Braid Present Reyes de los Present [*]

Calderon Present 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 Absent

Guingona Present Tan Present

Jamir Present Tingson Present [*]

Laurel Present 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 31 Members responded to the call.

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Is there any objection? (Silence)

APPROVAL OF JOURNAL

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

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

MR. RAMA: I move that we proceed to the Reference of Business.

THE PRESIDENT: 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 Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from Mr. Orlando F. Caliolio of Southern City Colleges, Pilar Street, Zamboanga City, proposing for inclusion in the Constitution of a provision granting Filipinos the right to keep and bear arms.

(Communication No. 1037 — Constitutional Commission of 1986).

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Mr. Mario Perez of 37 Aldrin Street, Doña Faustina Village, Culiati, Diliman, Quezon City, saying that if we want to eliminate the U.S. Military Bases in the Philippines, we should first eliminate the MNLFs and the NPAs who are supported by foreign countries.

(Communication No. 1038 — Constitutional Commission of 1986)

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

Letter from Mr. Domingo C. Salita, retired professor and former dean, College of Arts and Sciences, U.P., recommending that to determine the reasonable compensation of the constitutional officers in the 1986 Constitution, multiply by 10 their compensations under the 1935 Constitution and by 3 under the 1973 Constitution, then get the mean values and round up the figures.

(Communication No. 1039 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Mrs. Felomena B. Murallon and 14 other Pilipino teachers of Ozamiz City, urging the Constitutional Commission to incorporate in the Constitution a provision making Pilipino the national language.

(Communication No. 1040 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Ms. Leonora D. Romblon, College of Public Administration, U.P., submitting two resolutions which were culled from the interaction of graduate students in a general assembly organized by the College of Public Administration Student Council, to wit:

Resolution No. 4-86 — proposing to delete Section 4(c) of the proposed Article on Education, Science and Technology, Arts, Culture and Sports; and to incorporate in the curriculum of elementary and high school students a course on good morals and right conduct; and

Resolution No. 5-86 — proposing the inclusion in the Constitution of the following: (1) prohibition of the teaching of religion within the regular class hours; (2) establishment and maintenance of a system of free and quality public education in the elementary, high school, and tertiary levels with a nationalist, scientific and mass-oriented perspective, among others.

(Communication No. 1041 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Carlos E. Santiago of 1009-1011 Solis, Gagalangin, Manila, expressing apprehension over the move of certain Members of the Constitutional Commission to include in the Constitution the matter of the status of the U.S. bases in the Philippines, saying that the matter should better be left to the future executive and legislative branches of the Republic rather than include it in the fundamental law of the land.

(Communication No. 1042 — Constitutional Commission of 1986)

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I move that we vote on Third Reading on the proposed resolution to incorporate in the Constitution an Article on Education, Science and Technology, Arts, Culture and Sports. The committee chairman, Commissioner Villacorta, has made representation and said there are no impediments to the voting on Third Reading of this resolution.

SUSPENSION OF SESSION

THE PRESIDENT: Before we act on that, we will suspend the session for a few minutes.

At this juncture, the President relinquished the Chair to the Honorable Jose C. Colayco.

It was 10:13 a.m.

RESUMPTION OF SESSION

At 10:14 a.m., the session was resumed.

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

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. I ask that the chairman, as well as the members of the committee, occupy the front table.

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

The chairman and the members of the committee will please occupy the front table.

MR. RAMA: And with respect to my motion for a vote on Third Reading on the Article on Education, Science, Technology, Arts and Culture, I would like to defer that later in the morning.

THE PRESIDING OFFICER (Mr. Colayco): Mr. Floor Leader, on what section are we now?

MR. RAMA: We are now on Section 10, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Do we have any reserved interpellators?

MR. RAMA: I would like to ask the chairman of the committee whether they are now ready to take up Section 5 which was deferred yesterday.

MR. SUAREZ: Could we wait for a while for Chief Justice Concepcion?

MR. RAMA: So while we are waiting for Chief Justice Concepcion, I move that we proceed with the amendment to Section 10.

I ask that Commissioner Quesada be recognized. She is the registered speaker on Section 10.

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

MS. QUESADA: Actually, I am not yet proposing an amendment, but I would just like to ask the committee some clarificatory questions. Mr. Presiding Officer, may I ask the chairman of the committee some points regarding Section 10?

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

MS. QUESADA: Will the committee please clarify who are these government employees who will enjoy separation pay and retirement benefits? Would there be any distinction between employees who can avail of separation pay and retirement benefits?

MR. SUAREZ: Actually, there is no substantial distinction. We are granting these privileges to those who may have been "reorganized out," if I may use the term, as a result not only of the Freedom Constitution but also of the 1986 Constitution.

The only difference is with respect to the status of employment. This refers to the regular and permanent civil service employees of our government. This provision will not apply to those who are occupying temporary, casual and contractual positions and, of course, to those who may have been found having violated the civil service rules and regulations.

MS. QUESADA: Does the Commissioner know that in this particular building, the Batasang Pambansa, there are some employees of permanent status, serving for more than twenty years, who have not enjoyed separation pays

after having been terminated on account of the reorganization? They have received retirement benefits, but we know that they are prematurely retired while still in the peak of their productivity, so to speak. Does the Commissioner not think that they should also be covered by this provision so that those who may not be able to find jobs, after having been forcibly retired on account of the reorganization, would have their due compensation? We believe that some might be able to end up in government employment, but others may no longer have the opportunity of continued government service.

So the position of those who have made representations is for us to include as an intention in this particular provision on Transitory Provisions that those who have been retired forcibly should also enjoy separation pay in addition to retirement pay. Would these benefits be clarified in this provision? I understand Commissioner Davide has an amendment on the same issue and I would like to coauthor this with him since we have been approached by concerned government employees who have not enjoyed these benefits.

MR. SUAREZ: While it is the position of the committee that all of those who may have been "reorganized out," pursuant to the provisions of the Freedom Constitution and the 1986 Constitution, are entitled to these benefits, we will welcome any further clarification regarding the idea which was just brought up for our consideration this morning.

MS. QUESADA: I thank the Commissioner.

In addition, I would just like to state that because of the policy of retrenchment — the cutting down on employees — many cannot really be reemployed in the government although we grant them the priority for employment in the government. But considering the policy of retrenchment in government offices, we believe that they should be given this due consideration because of their inability to get employment in the government service.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Davide be recognized to present an amendment.

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

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

The first amendment is to delete the words "who may be" on line 24, page 2. The second amendment is on line 28 which consists in the deletion of the phrase "enjoy priority for employment" and the insertion of the following: "BE REEMPLOYED, IF THEY ARE QUALIFIED." On line 29, insert the phrase "OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS OR THEIR SUBSIDIARIES" after the word "government." After "separation pay" on line 29, insert the following: "AT THE RATE OF ONE MONTH SALARY FOR EVERY YEAR OF SERVICE." On line 30, I propose to substitute the word "him" before "under" with the word "THEM." On line 31, I propose to substitute the word "his" with "THEIR" and after "separation," I propose to add the following sentence: "SUCH RETIREMENT BENEFITS SHALL BE GRANTED REGARDLESS OF NON-COMPLIANCE OF THE AGE REQUIREMENT UNDER SUCH LAWS." So the entire Section 10 will now read as follows: "Civil service employees separated from the service as a result of the reorganization pursuant to the provisions of Article III of Proclamation No. 3 issued on March 25, 1986 and the reorganization following the ratification of this Constitution shall BE REEMPLOYED, IF THEY ARE QUALIFIED, in the government OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS OR THEIR SUBSIDIARIES, or be entitled to a separation pay AT THE RATE OF ONE MONTH SALARY FOR EVERY YEAR OF SERVICE, in addition to retirement and other benefits accruing to THEM under the laws then in force at the time of THEIR separation.

SUCH RETIREMENT BENEFITS SHALL BE GRANTED REGARDLESS OF NON-COMPLIANCE OF THE AGE REQUIREMENT UNDER SUCH LAWS."

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

MR. SUAREZ: Let me just clear up a few points, Mr. Presiding Officer. The deletion of the phrase "who may be" is quite acceptable to the committee. The problem is with respect to the reemployment, if they are qualified. As correctly pointed out by the honorable Commissioner Quesada, because of the trimming and the reorganization being effected from time to time, there may be no positions to which these "reorganized-out" employees may be given reemployment. That is why the committee was suggesting only that they should enjoy a priority for reemployment or employment in the proper agencies.

The Commissioner's proposal to define all of those agencies and instrumentalities is also acceptable to the committee. The matter of separation pay may be a little bit more burdensome for the government, if we are going to extend a one-month separation pay. We would rather leave this to Congress and the executive department to settle. Under the present labor laws governing the private sector, the separation pay is only the equivalent of one-half-month pay for every year of service although the Commissioner's suggestion that it should be the equivalent of one-month pay for every year of service is meritorious. We would not want to specify in the Constitution that it should be for a period of one month because a time may come when these reorganized employees may even be legally entitled to more than one-month separation pay. So we would like to extend a measure of flexibility to our government in this regard.

The change of the words "him" and "his" to "THEM" and "THEIR" is acceptable to the committee, Mr. Presiding Officer. So we only have some reservations.

MR. DAVIDE: What about the last proposed sentence: "SUCH RETIREMENT BENEFITS SHALL BE GRANTED REGARDLESS OF NON-COMPLIANCE OF THE AGE REQUIREMENT UNDER SUCH LAWS"?

MR. SUAREZ: That is substantially acceptable, Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer, there is only one point then. I proposed the change of "enjoy priority for employment" to "BE REEMPLOYED, IF THEY ARE QUALIFIED" because of the use of the word "or" before "be entitled to a separation pay." If the word "or" is changed to "AND," I would agree not to insist on changing "enjoy priority for employment," because the problem here is that there is a choice given to a "reorganized-out" employee — to enjoy the priority for reemployment which will never come to all, or to be entitled to a separation pay. Necessarily, he should not be made to wait for long to make a choice of separation pay or a preferred priority for reemployment. In other words, my point is, immediately he should be given that separation pay. And if he will be reemployed later, necessary arrangements may be made as to how to refund what had earlier been received as separation pay. So I would propose to change the word "or" before "entitled" to "AND" and I will not insist on changing "enjoy priority for employment."

MR. SUAREZ: Mr. Presiding Officer, that might change the import and the significance of this provision because under the Commissioner's proposal, if we use the conjunction "AND," then a "reorganized-out" employee would be entitled to two privileges — to enjoy priority to reemployment and to be entitled to a separation pay.

MR. DAVIDE: Separation pay in the meantime.

MR. SUAREZ: There may be two inconsistent propositions there. The moment one gets separation pay benefits, then he may not be entitled anymore to a reemployment in the government, Mr. Presiding Officer. That is the

inconsistency that the committee detects.

MR. DAVIDE: Anyway, if he receives the separation pay, he will lose the priority for reemployment, but it will not preclude him from being reemployed.

MR. SUAREZ: Therefore, there is only one choice with respect to the "reorganized-out" employee.

MR. DAVIDE: I see. So if that is the position of the committee, I will just reformulate my proposal on line 28. Instead of deleting entirely "enjoy priority for employment," I would only propose to change the word "enjoy" to the word "HAVE."

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

SUSPENSION OF SESSION

MR. SUAREZ: May we have a one-minute suspension, Mr. Presiding Officer, to reformulate this provision.

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

It was 10:31 a.m.

RESUMPTION OF SESSION

At 11:00 a.m., the session was resumed.

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

MR. RAMA: Mr. Presiding Officer, while we are still waiting for the new formulation of Section 10, I ask that we move back to Section 5 which was agreed upon to be taken up later. Section 5 is the provision regarding the Supreme Court, and the chairman of the Judiciary Committee is here now.

MR. SUAREZ: Mr. Presiding Officer, may we request that the Honorable Concepcion be recognized in connection with the discussions on Section 5, because the Committee on the Judiciary had submitted three proposals.

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

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

Section 5 as proposed by the committee states:

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.

I think a majority of the Members of the Commission are members of the bar, and the people, in general, are aware of the general clamor for measures to eliminate or, at least, minimize the backlog of cases and, therefore, the expeditious disposal of such cases.

With respect to cases filed after the adoption of the new Constitution, there is a pertinent provision in the Article on the Judiciary which attends to such cases. So the Committee on the Judiciary requested the Committee on Transitory Provisions to insert a provision regarding the Supreme Court, within a specified time, to 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.

The draft prepared and submitted by the Committee on Transitory Provisions fixes a period of six months. But after further study on the matter and, considering the clamor that has persisted up to this date for the expeditious disposal of those cases, apart from considering the additional number of cases that may be filed immediately after the ratification of the Constitution, the members of the Committee on the Judiciary proposed to the Committee on Transitory Provisions to extend the period of six months to one year because in connection with cases pending particularly before regional trial courts and metropolitan trial courts, a single method may not be advisable. The members of the Committee on the Judiciary expect that it might be necessary for the Supreme Court to prepare a special plan for particular regions, depending on the amount of the backlog and other conditions prevailing in these regions.

So I would repeat my proposal to the Committee on Transitory Provisions that the period of six months be extended to one year for the reasons already expressed. With this extension, I would move for the approval of Section 5, in accordance with the suggested amendment.

Thank you, Mr. Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

May I ask a question of my professor in constitutional law and most respected Chief Justice. Under this provision, the Supreme Court is directed to adopt a systematic plan. It is only the adoption of a plan to expedite the decision on resolutions of the entire backlog, et cetera. Will it take the Supreme Court that long to adopt a plan for the expeditious resolution of the backlog of cases?

MR. CONCEPCION: That is right.

MR. DE CASTRO: What does the Commissioner think would be the plan of the Supreme Court on this matter? Of course, my question is a preemption of what the Supreme Court will do. But based on the Commissioner's experience and his knowledge on these matters, what would be the best plan the Supreme Court may adopt?

MR. CONCEPCION: I have just intimated that for itself, it should adopt a plan whereby certain priorities be given to pending cases. With respect to regional trial courts and metropolitan trial courts, the Supreme Court may have to study the situation in each region, because different regions may have different problems on the disposal of cases. For instance, out of about 2,200 positions of judges, there are only about 1,700 positions filled up. In the body of the proposed Constitution, there is a provision to the effect that all vacancies shall be filled up within 90 days. So with the expected filling up of the vacancies, we hope that the disposition of cases pending will be much faster. And, of course, there is the further situation that with the measures we have adopted to eliminate the influence of political parties, of politics, in the appointments and in the administration of the Supreme Court, we expect that the climate that will prevail thereafter will be conducive to a more intensive and effective disposition of the pending cases.

MR. DE CASTRO: So that this will depend on the possible filling up of vacancies. As the Commissioner stated, out of about 2,200 positions, only about 1,700 are filled up. So there are still about 500 vacant positions. Suppose these are not filled up, is there a possibility of resolving this backlog of cases?

MR. CONCEPCION: I think the question is very pertinent. In this connection, I wish to call the attention of the Commissioner to the fact that since the proclamation of martial law, the climate in the Philippines for the independent administration of justice has been the worst we have ever had. First, upon proclamation of martial

law, all judges were placed in a condition of suspended animation. They were required to tender their resignations. Those who did not do so were considered as officers notoriously undesirable. Then in 1980 to 1981, there was a reorganization act which, I think, was absolutely unnecessary, except to clear the way for the administration to remove those members of the judiciary who were not sympathetic or cooperative with the ruling party.

Since the revolution last February, members of the bench, particularly of the lower courts, continued to be in a condition of suspended animation, in the sense that they did not know what their future would be.

In this connection, I wish to also stress the fact that we are proposing to insert a provision in the Constitution — we have partly inserted a provision — to the effect that no reorganization of the judiciary shall be effected, if the effect thereof would be to remove any member of the bench without due process of law.

So we hope the combination of these circumstances will contribute effectively to a more expeditious disposal of cases and a better climate for an impartial administration of justice.

MR. DE CASTRO: I thank the Commissioner. I am interested in it because I have several pending cases in the Supreme Court and in the lower courts, and we have been waiting for a few years now. So I thought that if we can adopt a systematic plan earlier than one year, perhaps it may expedite our cases.

Thank you, Mr. Presiding Officer.

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

MR. RAMA: Will Commissioner Concepcion yield to a few questions?

MR. CONCEPCION: Certainly, Mr. Presiding Officer

MR. RAMA: As Chief Justice before, the Commissioner must have made some studies regarding this tremendous backlog of cases in the Supreme Court. What conclusion has been drawn by those studies during the Commissioner's time?

MR. CONCEPCION: My conclusion is something that is already suggested by my observations. The backlog was not as big as it is now. I am referring to about 14 years ago. But as I mentioned before, since the proclamation of martial law the climate has changed considerably.

I will tell the Commissioner one thing. Before I applied for voluntary retirement, there was an incident which I brought to the attention of my colleagues in the hope that somehow, someone would say something about it. For two consecutive days, none of my colleagues said a single word. They did not even dare say, "Yes, what do you suggest?"; "What do you think about this?"; or "What shall we do?" Not a single word was uttered. This was the incident that prompted me to apply for my voluntary retirement. I felt I could not preside a court when even we, the members, could not say a single word in the intimacy of our conference room. I found out that everything we did or every move we took was monitored to the higher-up.

The announcement of my intent to retire voluntarily reached the ears of the administration and efforts were exerted to contact me, which I avoided.

MR. RAMA: As a journalist and lawyer, I also made some studies on this backlog because I was writing about it. I found out that one of the major causes, if not the major cause, for the backlog is the liberality and the ease with which the Supreme Court would give due course to petitions filed with them, even petitions which are, on their face, frivolous and made only for purposes of buying time. I thought that the Supreme Court should establish a screening committee composed of the justices to weed out these frivolous appeals of petitions. But as far as I

know, there has not been such a committee ever made.

Does the Commissioner not think that that is one of the major causes of this backlog?

MR. CONCEPCION: That is very true.

MR. RAMA: I wonder whether this was taken up by the committee during the public hearing which was attended by some Supreme Court justices.

MR. CONCEPCION: I do not remember whether that particular thing had been specifically taken up. But that is a matter of common knowledge.

MR. RAMA: What is a little more disturbing is that the lawyers, knowing that the Supreme Court has been bogged down by this backlog of cases, are all the more encouraged to file frivolous appeals because they know they can buy time. So this contributes. There is an incentive to file frivolous appeals, thereby worsening the backlog problem.

MR. CONCEPCION: In connection with this backlog, I beg the Commission to bear with me until a resolution requesting the reopening of certain sections in the Article on the Judiciary and which we submitted to the Steering Committee shall have decided to adopt further measures to meet that situation. I prefer to defer it to that time because that will perhaps be the appropriate time since the recommended measures have not been considered yet by the Commission.

MR. RAMA: I wonder whether with this new proposed provision, Section 5 . . .

MR. CONCEPCION: No, Mr. Presiding Officer, not Section 5, but the provision in the Article on the Judiciary itself.

MR. RAMA: I thank the Commissioner.

May I ask that Commissioner Ople be recognized.

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

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: May I be privileged to ask my former professor? The committee has accepted in principle the proposal of the Commissioner, but we are wondering whether or not we could add the words "AFTER THE RATIFICATION OF THIS CONSTITUTION" after "within ONE YEAR" to make it more specific.

MR. CONCEPCION: That is understood. Of course, I have no objection to that.

MR. MAAMBONG: And then on the fourth line, could we change the words "filed with" to "PENDING IN" so that it would read: "resolution of entire backlog of cases or matters PENDING IN"? Would that be all right with the Commissioner?

MR. CONCEPCION: That is acceptable to me, Mr. Presiding Officer.

MR. MAAMBONG: The third one is the change of the phrase "prior to" to "AT THE TIME OF," so it would read: "courts AT THE TIME OF the effectivity of this Constitution." Would it change the meaning, Mr. Presiding Officer?

MR. CONCEPCION: "The Supreme Court SHALL, within ONE YEAR after the ratification of this Constitution,

adopt FOR ITSELF AND THE LOWER COURTS a systematic plan to expedite the decision or resolution of cases or matters PENDING IN the Supreme Court or the lower courts AT THE TIME OF the effectivity of this Constitution." It is perfectly acceptable to me.

MR. MAAMBONG: It is acceptable. I thank the Commissioner.

MR. CONCEPCION: I also thank Commissioner Maambong.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: Thank you very much.

I understand we are still in the period of interpellations. Will the Chief Justice yield to a few questions?

MR. CONCEPCION: With pleasure, Mr. Presiding Officer.

MR. OPLE: Thank you.

We are speaking of Section 5 which requires the Supreme Court to adopt a systematic plan to expedite the decision or resolution of the entire backlog of cases filed with the Supreme Court or the lower courts. May I recall that in the Article on the Judiciary which has been approved by this Commission, a three-tiered sort of deadline was established precisely to prevent the further growth of backlogs of cases: 24 months for the Supreme Court; 12 months for the lower collegial courts; and 3 months for all lower courts. I suppose that this constitutional provision we have previously approved can really serve as the foundation for a strategy to minimize backlogs in the future. Is this correct?

MR. CONCEPCION: Certainly.

MR. OPLE: And I think this is a highly laudable approach — preventing backlogs rather than disposing of them after they have accumulated to a critical mass.

MR. CONCEPCION: The Commissioner is right, Mr. Presiding Officer.

MR. OPLE: Some of the data here on backlogs are really quite alarming. We owe to the sponsorship speech of the chairman of the Committee on Transitory Provisions the information that in just one year from the end of 1985, that is to say, in less than one year, 357,000 new cases were added to the lower courts.

MR. CONCEPCION: No, Mr. Presiding Officer, that is not true. The figure is the entire backlog.

MR. OPLE: According to the sponsorship speech of Commissioner Suarez, the Office of the Court Administrator says there were 358,961 cases pending in all lower courts as of the end of 1985.

MR. CONCEPCION: That is right.

MR. OPLE: During that year, the lower courts started with 370,918 cases to which were added 357,552 cases filed.

MR. CONCEPCION: Yes, Mr. Presiding Officer.

MR. OPLE: At the end of the year, the courts disposed of a little above one-half of the total 728,470 cases which suggest a Sisyphus situation, where in the case of Sisyphus, he went up the hill with a block of stone on his shoulder. He rolled this down and then he picked it up and went up again in an eternal cycle of stalemate. So no matter what the courts did — and I suppose they were imbued with the customary standard of zeal and diligence in

the public service — the backlogs kept accumulating. Therefore, would this not require a deeper examination of the causes of backlogs other than zeal and efficiency? Does the suggestion arise from the idea that the courts might be actually undermanned and that given their present size or scope relative to demand, they are doomed to be a Sisyphus for all the years to come, unless urgent augmentation is attempted?

MR. CONCEPCION: The Commissioner is correct, but I ask our Floor Leader to bear with me until our request for reopening of certain articles shall have been taken up because the Transitory Provisions is not the place to discuss these matters. The provisions in the Article on the Judiciary have been the object of continuous studies by the Committee on the Judiciary. This has led to conferences with a number of officials, including the Supreme Court itself. As a consequence of these conferences and communications received by the committee, the committee met several times. The result of their deliberations is incorporated into amendments which we are proposing to introduce in the provisions already approved to meet precisely this problem of backlog.

MR. OPLE: Yes. Of course, I am aware of the fact that there is a move to reopen the Article on the Judiciary.

MR. CONCEPCION: That is right. And, perhaps, the Commissioner might have received a copy of the proposed amendments.

MR. OPLE: Yes. Of course, I thought there was a clear nexus between this Transitory Provisions and some provisions in the Article on the Judiciary.

But my final question has to do with the backlogs in quasi-judicial agencies. I know for a fact that because of constraints of personnel and resources again in many quasi-judicial bodies of the government, and not exactly due to absence of a becoming zeal and diligence, backlogs have been piling up.

May I point out, Mr. Presiding Officer, that in the case of the National Labor Relations Commission, when cases are delayed and the backlogs are not decisively relieved, there is a social and economic impact on industrial peace, for example. I was wondering whether at the proper time, the Chief Justice might consider an amendment which would put under the purview of the systematic plan for the courts a similar provision for the quasi-judicial bodies.

MR. CONCEPCION: If I may anticipate certain matters related to the Article on the Judiciary, may I mention the plan to revert to the old composition of the Supreme Court from 11 to 15, with authority in its discretion to act in divisions of three, five or seven members. If the court organizes divisions of three, there would be five divisions, and labor cases, particularly, and other minor cases like ejectment could be assigned to these divisions.

MR. OPLE: I certainly would like to support with great enthusiasm that proposal at the proper time.

MR. CONCEPCION: Thank you.

MR. OPLE: Before I leave the floor, Mr. Presiding Officer, just one question that has nagged my mind in the course of long service in the government, parts of which I have been closely involved with some cooperation with the judicial system. According to the former Solicitor General, up to 80 percent of all cases handled by the Office of the Solicitor General in the Supreme Court are either labor or labor-related cases, and a good number of these have to do with tri-union disputes which I understand will not be entertained by the Supreme Court in other jurisdictions. I wonder whether or not my recollection is right that in the United States Supreme Court, they limit themselves to a maximum of 900 cases a year on which to make their pronouncements, so that one is extremely lucky to make the docket of the U.S. Supreme Court. They choose very carefully what they should entertain.

Would not a more discriminating approach with respect to what cases can be entertained in the future also contribute to the elimination of backlogs, Mr. Presiding Officer?

MR. CONCEPCION: That is very true, but may I then advance another aspect of the proposed amendments, and that is, the Committee on the Judiciary has proposed to eliminate appeals and permit, only reviews on certiorari, so that from the very beginning the court could decide whether it would give due course or not.

MR. OPLE: I am glad to hear that, because it addresses a jugular issue with respect to the elimination of backlogs.

Thank you, Mr. Presiding Officer.

MR. CONCEPCION: Thank you.

THE PRESIDING OFFICER (Mr. Colayco): The Chair would like to ask the committee to read the reformulated statement.

MR. NOLLEDO: Mr. Presiding Officer, I made a reservation to interpellate the Chief Justice.

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

MR. NOLLEDO: Thank you, Mr. Presiding Officer. I gave way to Commissioner Ople.

I understand that the Commissioner is recommending the approval of three provisions.

MR. CONCEPCION: Yes.

MR. NOLLEDO: I would like to read the first provision before I ask the questions.

The legal effect of the lapse before the adoption of this Constitution of the applicable periods for the decision or resolution of the case or matter submitted for adjudication by the courts shall be determined in appropriate judicial proceedings.

SUSPENSION OF SESSION

MR. SUAREZ: Mr. Presiding Officer, may we request a suspension of the session.

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

It was 11:34 a.m.

RESUMPTION OF SESSION

At 11:35 a.m., the session was resumed.

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

MR. NOLLEDO: In this provision, the Commissioner contemplates cases where the periods set forth in Section 14 of the Article on Judiciary have already lapsed before the adoption of this Constitution. The Commissioner can correct me if I am wrong. I have here the Third Reading copy of the article and this was the subject of an interpellation before. The Commissioner has not provided for the effect if the period should lapse with respect to all other cases. Unlike in Section 11 of Article X of the 1973 Constitution, should the period lapse without the cases being decided by the pertinent courts, specifically the Supreme Court, the decision of the appealed case shall be deemed affirmed. I find no similar provision in the Article on the Judiciary as reported by the committee, Mr. Presiding Officer. So I am just wondering that while the committee is providing for the determination of the legal effect of the lapse before the adoption of this Constitution of the applicable periods, to be determined in appropriate judicial proceedings, there is no provision with respect to the lapse of the applicable periods set forth in Section 14 with respect to all other cases, cases for example that are still pending upon ratification but whose

period has not yet lapsed.

MR. CONCEPCION: I wonder whether the Commissioner has a copy of the proposed amendments.

MR. NOLLEDO: I have a copy of the proposed amendments to be inserted in the Transitory Provisions, Mr. Presiding Officer.

MR. CONCEPCION: What about the body?

MR. NOLLEDO: Now under consideration?

MR. CONCEPCION: No, the proposed amendments to the body of the Article on the Judiciary.

MR. NOLLEDO: I do not have a copy.

MR. CONCEPCION: There is a provision there. I think these matters do not belong to the Transitory Provisions.

MR. NOLLEDO: I am now satisfied with that answer, Mr. Presiding Officer.

What does the Commissioner mean by "appropriate judicial proceedings"? Will it be with the court where the appeal is pending?

MR. CONCEPCION: I think it is a justiciable question. I do not think it is for the Constitutional Commission to determine which court shall have jurisdiction. That is why if we put it in those general terms, the Constitutional Commission has no authority to determine what court will hear it. And so I hope the Rules of Court and the laws on the judiciary will settle that matter.

MR. NOLLEDO: Mr. Presiding Officer, I have some questions with respect to the section recommended by the Committee on Transitory Provisions which fixes a period of one year for the Supreme Court and the lower courts to adopt a systematic plan to expedite the decision or resolution of cases or matters filed with the Supreme Court or the lower courts prior to the effectivity of this Constitution. I think the Commissioner is aware that the Supreme Court in several cases ruled that the periods set forth in Section 11 of the 1973 Constitution were considered directory. And in the committee report, it was the intention of the committee to consider them mandatory.

MR. CONCEPCION: That is right.

MR. NOLLEDO: Would it not be feasible that the applicability of the periods in the report on the Article on the Judiciary should be withheld until after this mechanism shall have been determined by the Supreme Court?

MR. CONCEPCION: What mechanism?

MR. NOLLEDO: The mechanism by which we can expedite the decision or resolution of backlog cases.

MR. CONCEPCION: That cannot wait. Something has to be done in the meanwhile. That is why we have a provision, the last, in the proposed amendments.

MR. NOLLEDO: And so pending the lapse of one year, am I right if I say that the period set forth in the report shall still be applicable in a mandatory manner even before the mechanism is determined?

MR. CONCEPCION: Yes. Please bear with us. There are provisions in the Article on the Judiciary which I hope we can take up as soon as possible.

MR. NOLLEDO: I thank the Commissioner.

MR. CONCEPCION: May I advance the fact that while in the beginning the members of the Committee on the Judiciary were somewhat reluctant to use the word "mandatory" because it seemed to be rather harsh in dealing

with the Supreme Court, that word has been inserted in one innocuous provision so that the command is there but it is so made as to be as less harsh as possible to the Supreme Court. After all, the prestige of our Supreme Court is also the prestige of the Republic of the Philippines. There is a provision to that effect. May I ask the Commissioner to please wait until then, if he will bear with us.

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

MR. CONCEPCION: I also thank the Commissioner.

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

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

MR. REGALADO: Mr. Presiding Officer, the points have already been raised by Commissioner Concepcion and I think we could defer the points raised with respect to the text itself of the article, when that is taken up after the approval of the petition for the reopening.

I had also a conference with Commissioner Maambong with respect to the last proposed amendment and we have already agreed on the wordings thereof.

MR. RAMA: Mr. Presiding Officer, there are no more registered interpellators or proponents of amendments, so may I ask that Section 5 be read as finally formulated so we may take a vote on it.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: I heard from the honorable chairman of the Committee on the Judiciary that there is a petition for the reopening of the Article on the Judiciary where this is to be included. Did I hear the Honorable Concepcion right?

MR. CONCEPCION: Correct.

MR. DE CASTRO: In that case, Mr. Presiding Officer, why do we not defer this until we reopen the section on the Judiciary, because according to the explanation of the honorable chairman of the Committee on the Judiciary, these have certain connections in certain provisions of the Article on the Judiciary and according to his explanation, it will be best to put this section in the Article on the Judiciary rather than in the Article on Transitory Provisions? Therefore, I move that we defer consideration of Section 5 until the Article on the Judiciary is reopened.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: I object to this proposal. I had the privilege of conducting the interpellations with respect to the interrelationship between this provision and other provisions in the approved Article on the Judiciary. I think this can stand apart because it addresses itself to backlogs, what to do with them now, rather than for the prevention of backlogs which would be the main intent of the provisions in the Article on the Judiciary.

However, I would like to propose an amendment, if we are in the period of amendments.

MR. RAMA: Yes, we are in the period of amendments.

MR. OPLE: The Chief Justice, I recall, in the course of the interpellations, agreed that a similar plan must be adopted for all quasi-judicial agencies. Will the author, therefore, entertain that amendment now which simply

consists of a brief additional sentence which reads as follows: "A SIMILAR PLAN MUST BE ADOPTED FOR ALL QUASI-JUDICIAL AGENCIES"?

THE PRESIDING OFFICER (Mr. Colayco): May the Chair have the reaction of Commissioner Concepcion.

MR. SUAREZ: May we have it read again.

MR. OPLE: Yes, an additional brief sentence just to take care of bodies like the Securities and Exchange Commission, the National Labor Relations Commission, and all other quasi-judicial bodies.

So it says: "A SIMILAR PLAN SHALL BE ADOPTED FOR ALL QUASI-JUDICIAL AGENCIES."

MR. SUAREZ: Within the same period of one year.

MR. OPLE: Yes.

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: May I inquire from Commissioner Ople which he envisions as the body that will formulate that plan. Could it be the Supreme Court?

MR. OPLE: I think this will be under the guidance of the Supreme Court, but the plans themselves will have to be adopted by the ministries or other authorities, such as the Office of the President to which these quasi-judicial bodies may be attached.

MR. REGALADO: Not by the Supreme Court.

MR. OPLE: Under the guidance of the Supreme Court.

MR. REGALADO: All right.

MR. OPLE: May I seek the committee's approval.

MR. SUAREZ: The committee accepts the proposal.

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

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

MR. RAMA: May I ask the committee to read the provision as amended.

MR. SUAREZ: This is how Section 5 will now read: "The Supreme Court SHALL, within ONE YEAR after the ratification of this Constitution, adopt FOR ITSELF AND THE LOWER COURTS a systematic plan to expedite the decision or resolution of cases or matters PENDING IN the Supreme Court or the lower courts AT THE TIME OF the effectivity of this Constitution. A SIMILAR PLAN SHALL BE ADOPTED FOR ALL QUASI-JUDICIAL OFFICES."

MR. JAMIR: Mr. Presiding Officer.

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

MR. SUAREZ: Excuse me. Commissioner Ople, is it "FOR ALL" or "BY ALL"?

MR. OPLE: "FOR ALL."

MR. SUAREZ: "FOR ALL QUASI-JUDICIAL AGENCIES."

Thank you.

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

MR. JAMIR: What is there to prevent the Supreme Court from again interpreting the word "SHALL" as merely directory?

MR. SUAREZ: Is the Commissioner suggesting that we change "SHALL" to "MUST"?

MR. JAMIR: That is my preference.

MR. SUAREZ: All right, we have no objection to that.

MR. JAMIR: Thank you.

MR. SUAREZ: So as proposed by the Commissioner Jamir, it would read: "The Supreme Court MUST, within ONE YEAR, et cetera."

MR. MAAMBONG: Will this change of "SHALL" to "MUST" in the first sentence affect also the amendment of Commissioner Ople? He used the word "SHALL."

MR. OPLE: In order to insure that quasi-judicial agencies are rated a little bit below the regular courts, I shall be content with "SHALL" in the final sentence, Mr. Presiding Officer.

MR. JAMIR: Thank you.

MR. CONCEPCION: Mr. Presiding Officer, may I say a word. I recall one of the letters that we received which was addressed to the President of the Commission. It complained about the change of the phraseology of certain provisions. We inserted the word "MUST" in a provision of an article regarding the 24-month period. He said, "That will create another problem, because when it is 'SHALL,' will it mean to be directory? When we want to make it mandatory, we now use the word "MUST."

And so, I would welcome the recommendation of Commissioner Ople that we revert to "SHALL" unless otherwise absolutely indispensable. In this connection, I recall that during our last conference with the Supreme Court, some of the members of the Court speaking among themselves, were discussing what will happen if the period lapses. I heard one of the justices use the word "impeachment." In other words, they now understand what we mean by something mandatory, and that is easily deductible from a number of expressions we used. We require the date of submission of the case to be certified. We require a certification on the deliberations of the case, and we require another certification of the date of expiration of the period granted. They are not innocent people; they are sufficiently sophisticated to understand what it means.

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

MS. AQUINO: Mr. Presiding Officer, I would only like to be convinced about the necessity of this section in the Article on Transitory Provisions, considering that we have approved Section 9 in the Article on the Judiciary which vested in the Supreme Court administrative supervision over all the courts.

Would that not give sufficient mandate for the Supreme Court to address itself to, precisely, the problem that this proposed section is presenting? Do we have to provide for this section? Would this not be a surplusage in view of Section 9 in the Article on the Judiciary?

MR. CONCEPCION: May I answer the question. I think the provisions of the Constitution on supervision existed in 1935.

MS. AQUINO: Yes.

MR. CONCEPCION: The Supreme Court has not done anything insofar as the backlogs in the lower courts are concerned. Of course, the committee was wondering how to drive home the fact that the entire Commission and practically the entire bar are disappointed with their action in declaring the period granted to them as directory. I think they know it now, but still, this will convey to them rather the special interest of the framers of the Constitution and of the people in expediting the disposal of cases and that otherwise there will be no soft treatment for the court.

MS. AQUINO: Thank you.

MR. CONCEPCION: It is a little harsh. The Committee on the Judiciary hates to do this, but I am afraid there is no other choice.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: A certain clarification on the use of the words "must" and "shall."

Section 14, subparagraph (1) on the approved Article on the Judiciary speaks of "must."

MR. CONCEPCION: Is it the one approved by the Commission?

MR. DE CASTRO: In the committee, yes.

MR. CONCEPCION: Yes. But I was calling attention to the danger of using the word "must" because the question was propounded. Therefore, when the Constitutional Commission uses the word "shall," it is no longer mandatory but directory, because if it wants it to be mandatory, it will use the word "must." I do not like the word "must." It should not appear in the Constitution.

Whatever is placed in the Constitution is meant to be mandatory, otherwise it would not appear in this document.

MR. DE CASTRO: I remember that during our discussion on this matter that we have in the Constitution of 1973, there were so many Commissioners — I am one of them — who complained that the word "shall" was considered by the Supreme Court then as directory and not mandatory. So, it was the Commissioner who recommended the word "must," if I remember right.

So, Section 14, subparagraph (1) uses the word "must" when it says, "All cases or matters filed after the effectivity of this Constitution must be decided." In Section 5, we also talk about the resolution or decision of backlog cases. Why can we not maintain the use of the word "must" in Section 5 in order to coordinate or to correlate it with Section 14, subparagraph (1)?

MR. CONCEPCION: We can use the word "must," but I also pointed out the danger of using it in that when we used the word "shall" in the Article on the Judiciary, it may be construed as "directory." This is one problem. Another thing, I found out that the Supreme Court did not construe the word "shall" as directory. It appeared that all Constitutions started with the periods given to the three levels of courts: 18 months for the Supreme Court, 12 for the Court of Appeals and three months for the other courts.

But then there was a second paragraph saying "with respect to the cases before the Supreme Court, et cetera." The Court thought that the paragraph referred exclusively to the Supreme Court, and was separate from the first

paragraph using the word "shall." It is not really the interpretation of the word "shall."

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

MR. ABUBAKAR: Mr. Presiding Officer.

MR. DE CASTRO: Assuming that we approve this Section 5, now as amended, will there be any reason why we cannot transpose this to the provision on the Judiciary as recommended by the honorable chairman of the Committee on the Judiciary?

MR. SUAREZ: Mr. Presiding Officer, because of the fact that this is a mandate upon the Supreme Court to comply within a period of one year, it is transitory in character. In that sense, it is transient. That is why, it is the suggestion of the Chief Justice that this should be discussed and included in the Article on Transitory Provisions.

MR. DE CASTRO: So, if we approve this, it will remain in the Article on Transitory Provisions.

MR. SUAREZ: It will remain there, the Commissioner is right.

MR. DE CASTRO: Thank you.

MR. ABUBAKAR: Mr. Presiding Officer.

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

MR. ABUBAKAR: I have here a brief exposition for about 30 minutes on the use of "shall" or "must."

There are many constitutional cases — political cases in the Supreme Court of the United States as well as in our court — where these two particular words assume a meaning that has been accepted by judicial authorities and political scientists. The Chief Justice is correct in that we must not incorporate the word "must" but instead we use the word "shall." "Shall" is not permissive; it is directory and compulsive. When we say "shall accommodate," that means it is directed to accommodate, there is no other alternative. Besides, from the standpoint of language and words, I would not be in favor of using "must" in our Constitution. It is too strong, too pervasive, as if there is a compulsion on a constitutional provision.

So, I agree with the cited cases on the principles adopted by the American courts, as well as by the constitutionalists, that the word "shall" in this particular proviso is the correct word used. It is directory as well as mandatory. The word "shall" is never interpreted to be at the disposal of who is going to implement it at his discretion; it is a compulsory provision.

And, therefore, the Chief Justice in the use of the word "shall" instead of "must" is not only correct but is supported by constitutional cases in the United States as well as political scientists who defined this word in terms of government.

THE PRESIDING OFFICER (Mr. Colayco): Thank you, Commissioner Abubakar.

MR. DAVIDE: Mr. Presiding Officer.

MR. ABUBAKAR: I join the Chief Justice in using "shall" in this particular proviso.

THE PRESIDING OFFICER (Mr. Colayco): The Chair asks the Floor Leader if there is any other speaker.

MR. RAMA: The last speaker is Commissioner Davide who will present an amendment.

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

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

Before I propose an amendment, I will only ask Commissioner Ople or the committee one question. When the committee accepted the Ople amendment reading, "A SIMILAR PLAN SHALL ALSO BE ADOPTED FOR QUASI-JUDICIAL AGENCIES," is it a mandate on the Supreme Court?

MR. SUAREZ: As explained by the proponent, Commissioner Ople, this is meant to urge the Supreme Court to sort of guide and supervise and urge these quasi-judicial agencies to come up with the systematic plan.

MR. DAVIDE: But the Supreme Court does not have administrative supervision over quasi-judicial bodies. So may I propose that it should be inserted somewhere and not directly under the section related to the Supreme Court.

MR. MAAMBONG: Before that, if the Commissioner will recall, he was the one who inserted a provision in the approved article, I think in the Article on the Judiciary.

MR. DAVIDE: I was about to do that under Section 7, paragraph 5 of the Article on the Judiciary. We have the last sentence reading as follows:

Rules of procedures of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

It relates only to the function of the Supreme Court to review the rules of procedures of special courts and quasi-judicial bodies.

MR. MAAMBONG: What we are talking about is a systematic plan. This refers to procedure likewise. Is the Commissioner suggesting that we will recast this and put it in that particular section he has just read?

MR. DAVIDE: No, it is not recasting and transferring it here; my proposal is to make it a separate paragraph and not to be continued to the first sentence.

MR. MAAMBONG: We did make it a separate paragraph.

MR. DAVIDE: Separate paragraph.

MR. MAAMBONG: Yes.

MR. DAVIDE: Then I will propose this amendment. Before "quasi-judicial" we add the words "SPECIAL COURTS AND" to align it with paragraph 5 of Section 7. Instead of "agencies," it should be "BODIES."

MR. MAAMBONG: So, it would now read: "A SIMILAR PLAN SHALL BE ADOPTED FOR ALL OTHER SPECIAL COURTS."

MR. DAVIDE: Yes.

MR. SUAREZ: "FOR ALL SPECIAL COURTS."

MR. MAAMBONG: Is it "FOR ALL OTHER" or "ALL SPECIAL COURTS"?

MR. DAVIDE: It should be: "FOR ALL SPECIAL COURTS AND QUASI-JUDICIAL BODIES."

MR. OPLE: May I support the amendment proposed by Commissioner Davide, Mr. Presiding Officer?

Thank you.

MR. MAAMBONG: The committee accepts.

MR. RAMA: Mr. Presiding Officer, the body is ready to vote on Section 5.

THE PRESIDING OFFICER (Mr. Colayco): Will the committee read the entire section as reformulated?

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

As reformulated, Section 5 will now read: "The Supreme Court must, within ONE YEAR after the ratification of this Constitution, adopt FOR ITSELF AND THE LOWER COURTS a systematic plan to expedite the decision or resolution of CASES OR MATTERS PENDING IN the Supreme Court or the lower courts AT THE TIME OF the effectivity of this Constitution.

A SIMILAR PLAN SHALL BE ADOPTED FOR ALL SPECIAL COURTS AND QUASI-JUDICIAL BODIES."

VOTING

THE PRESIDING OFFICER (Mr. Colayco): Is the body ready to vote? As many as are in favor of the new formulation, 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 34 votes in favor and none against; Section 5 is approved.

MR. RAMA: Mr. Presiding Officer, we go back now to Section 10 of which a formulation has been already finished.

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

MR. RAMA: May I ask the chairman of the committee to read the new formulation.

MR. SUAREZ: Thank you.

Mr. Presiding Officer, we have distributed copies of the reformulated proposed Section 10 among the Commissioners. But may I read the said proposed Section 10 now: "CAREER civil service employees separated from the service NOT FOR CAUSE BUT as a result of the reorganization pursuant to the provisions of Article III of Proclamation No. 3 issued on March 25, 1986, and the reorganization following the ratification of this Constitution, MAY BE CONSIDERED for employment in the government OR IN ANY OF ITS SUBDIVISIONS, INSTRUMENTALITY OR AGENCY, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES, or be entitled to APPROPRIATE separation pay, in addition to retirement and other benefits accruing to THEM under the laws OF GENERAL APPLICATION then in force at the time of THEIR separation. THIS PROVISION ALSO APPLIES TO CAREER OFFICERS WHOSE RESIGNATIONS, TENDERED IN LINE WITH THE EXISTING POLICY, HAD BEEN ACCEPTED." May I add, Mr. Presiding Officer, that the proponents of the proposed Section 10 are Commissioners Ople, Davide, Monsod, Quesada, de los Reyes, Maambong, Foz and Lerum.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: May I just make a correction? Between the word "or" and the words "be entitled," we insert the word "SHALL" as a consequence of the change of priority. So, it shall read: "or SHALL be entitled to APPROPRIATE separate pay."

MR. DE LOS REYES: Yes.

MR. DAVIDE: Thank you.

MR. SUAREZ: It is accepted.

MR. RAMA: Mr. Presiding Officer, may I ask a few questions?

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

MR. RAMA: Under the new formulation, when we use the words "may be," the implication here or the interpretation is everything — all the rights included in this article — or the entitlement to the right is merely directory, not mandatory.

MR. SUAREZ: The Commissioner is right.

MR. RAMA: Even to the "APPROPRIATE separation pay." Here, there is no change of the words "may be considered for employment in the government . . . or may be entitled," because that is the only way to read it.

MR. SUAREZ: No.

MR. RAMA: So, in this case, even to separation pay, the right is merely directory.

MR. SUAREZ: That is the result of the Davide amendment, precisely because of the introduction of the phrase "SHALL be entitled." In other words, what is only directory is the matter of consideration for employment. But the question of receiving separation pay connotes a mandatory character because of the use of the words "SHALL be entitled."

MR. RAMA: So, there must be an amendment here to read: "SHALL be entitled."

MR. SUAREZ: It was already amended and accepted by the committee.

MR. RAMA: In my text, there is none.

Thank you, Mr. Presiding Officer.

MR. FOZ: Mr. Presiding Officer.

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

MR. FOZ: By using the term "CAREER civil service employees," are we adopting the scope of such term as embodied in Section 5, Article IV of P.D. No. 807, otherwise known as the New Civil Service Law, which provision states that the career service shall include, among others, the following: Open career positions for appointment to which prior qualification in an appropriate examination is required; closed career positions which are scientific or highly technical in nature; positions in the career executive service; career officers other than those in the career executive service who are appointed by the President; personnel of government-owned or controlled corporations whether performing governmental or proprietary functions, who do not fall under the noncareer service; and permanent laborers, whether skilled, semi-skilled or unskilled?

Is the Commissioner referring to that scope or concept of the career service?

MR. SUAREZ: The answer to the Commissioner's question is in the affirmative, and we thank him for making those recitations of what would constitute the career service personnel as provided under P.D. No. 807, which is captioned "the New Civil Service Law."

MR. FOZ: Thank you.

MR. AZCUNA: Mr. Presiding Officer.

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

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

May we know whether or not this provision would make a choice between reemployment and separation pay, because it says, "or SHALL be entitled."

MR. SUAREZ: It is not really a choice but these are privileges, because one does not exclude the other, as explained earlier. For example, there is an opportunity for reemployment, and a career service man or personnel who may have been "reorganized out." if otherwise qualified, may apply for that opening. It is still discretionary on the part of the head of the department to accept or to reject the application for reemployment. But assuming that that particular individual would be reemployed, it would not preclude him or her from availing himself or herself of the right granted under the second option; that is, to be entitled to appropriate separation pay.

MR. AZCUNA: And if he has already received it there is no need to return the same, if he is reemployed.

MR. SUAREZ: There is no need to return the same but he would not be entitled later on assuming that he or she would again be "reorganized out" to that original portion which had already been accepted or received by him.

MR. AZCUNA: Thank you.

MR. RAMA: Mr. Presiding Officer, we have had several hours of discussion on this particular section; so I move that we take a vote on this particular section, Section 10.

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

The Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA: Mr. Presiding Officer, on lines 2 to 5 is the clause "pursuant to the provisions of Article III of Proclamation No. 3, issued on March 25, 1986, and the reorganization." Are those words necessary? Can we not just say, "result of the reorganization following the ratification of this Constitution"? In other words, must we make specific reference to Proclamation No. 3?

MR. SUAREZ: Yes. I think the committee feels that is necessary, because in truth there has been a reorganization by virtue of Proclamation No. 3. In other words, there are two stages of reorganization covered by this section.

MR. PADILLA: I understand there was a reorganization committee headed by a minister?

MR. SUAREZ: Philippine Commission on Government Reorganization.

MR. PADILLA: But whether that has already been implemented or not, I do not believe in it. There has been a plan, but I do not think it has been implemented. If we want to include any previous reorganization after or before the ratification, why do we not just say "reorganization before or after the ratification" to simplify the provision and eliminate two-and-a-half sentences that may not be necessary? And as a result of the reorganization, if the committee feels there has been reorganization before ratification and there be reorganization after, we just say "before or after the ratification of this Constitution."

MR. SUAREZ: Something like this: "as a result of the reorganization effected before or after the ratification of the Constitution" on the understanding, with the statement into the records, that this would be applicable to those reorganized out pursuant to the Freedom Constitution also.

MR. PADILLA: That is understood if there has been a reorganization before the ratification or a reorganization after the ratification.

MR. SUAREZ: The doubt expressed by the committee is that even those "reorganized out" during the Marcos regime may avail themselves of this privilege.

MR. PADILLA: Reorganized during the dictatorial regime?

MR. SUAREZ: Yes, especially those in connection with the reorganization of the judiciary.

MR. PADILLA: That is better.

MR. SUAREZ: That is why the committee feels it might be necessary to specify these two Constitutions — the Freedom Constitution and the 1986 Constitution.

MR. PADILLA: I will yield to the judgment of the committee.

MR. SUAREZ: Thank you.

MR. PADILLA: This is a very long sentence.

MR. JAMIR: Maybe we can shorten this a little by deleting the words "to the provisions of Article III of."

MR. SUAREZ: In fact, we are thinking of that because we are saying only "Proclamation No. 3." We can do without the phrase "issued on March 25, 1986." Therefore, we will delete the words "the provisions of Article III."

MR. JAMIR: Thank you very much. Mr. Presiding Officer.

MR. PADILLA: Another observation, Mr. Presiding Officer. This is a very long sentence and it is divided by the word "or." Of course, this is alternative.

THE PRESIDING OFFICER (Mr. Colayco): Does the Vice-President have a definite restatement now so that it can be considered directly by the committee?

MR. PADILLA: Yes. I am going to suggest two sentences instead of this one long sentence with the word "or." In other words, we provide first for the civil service employees who are entitled to priority for employment.

THE PRESIDING OFFICER (Mr. Colayco): Can the Vice-President give the reformulation so that there can be a definite term?

MR. PADILLA: Yes, I would like to first suggest the concept, the thought and the specific terms can follow, because if the committee is not receptive to dividing it into two, then I will not propose any particular amendment.

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

MR. PADILLA: And so, the other alternative is when they are not employed, then they are entitled to separation pay. The words "in addition to" may be eliminated. We just say "separation pay, retirement and other benefits accruing to THEM under the laws OF GENERAL APPLICATION then in force at the time of THEIR separation."

So I believe it will be clearer.

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

MR. SUAREZ: In other words, we would delete the phrase "in addition to" descriptive of "retirement." Hence, it will read: "or SHALL be entitled to APPROPRIATE separation pay, retirement and other benefits accruing to THEM, et cetera."

MR. PADILLA: The previous suggestion is, after the word "SUBSIDIARIES" we put a period (.). Then we say: "THOSE WHO ARE NOT SO EMPLOYED SHALL be entitled to separation pay."

MR. SUAREZ: It might lose its essential characteristic. The committee has no objection to the deletion of the phrase "in addition to," but to put it in a separate sentence might lose its alternative character.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Commissioner Aquino is ahead of Commissioner Monsod. We will give her the preference. Commissioner Aquino may proceed.

MS. AQUINO: Mr. Presiding Officer, I would only like to be clarified about the intention of the committee.

Career civil service employment has a system of ranking and classification. In the instance of reemployment or rehiring, is there an intention to respect previous classification and ranking?

MR. SUAREZ: Yes.

MS. AQUINO: Thank you.

Is this provision self-executing or would this require Congressional . . .

MR. SUAREZ: No. It is self-executing in character.

MS. AQUINO: Thank you.

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

MR. MONSOD: I would like to make a suggestion, Mr. Presiding Officer. When we talk about this section, there are really two parts. The part that refers to "APPROPRIATE separation pay" is mandatory; the part referring to "employment" is discretionary. So, I was going to suggest that in accordance with the suggestion of Commissioner Padilla when we talk about career civil service and so on, after the phrase "and the reorganization following the ratification of this Constitution," we jump and say: "SHALL be entitled to APPROPRIATE separation pay AND TO retirement and other benefits accruing to THEM under the laws of GENERAL APPLICATION then in force at the time of THEIR separation."

Then we have another sentence: "IN LIEU THEREOF THEY MAY BE CONSIDERED FOR EMPLOYMENT IN THE GOVERNMENT OR ANY SUBDIVISION, INSTRUMENTALITY OR AGENCY INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES." Then the third sentence: "THE PROVISION ALSO APPLIES TO CAREER OFFICERS WHOSE RESIGNATIONS TENDERED IN LINE WITH THE EXISTING POLICY HAD BEEN ACCEPTED."

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: May I propose an amendment to that amendment of Commissioner Monsod? To just further simplify it instead of saying: "accruing to THEM under the laws of GENERAL APPLICATION then in force," we can just say: "accruing to THEM under the APPLICABLE LAWS in force at the time of THEIR separation."

MR. MAAMBONG: Could we have that again?

MR. REGALADO: May I read: "and other benefits accruing to THEM under the APPLICABLE LAWS in force at the time of THEIR separation."

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: I regret that that may not convey the right message. What we were trying to avoid here are certain presidential decrees or special laws that gave special gratuities to certain officers. That is why we suggested the phrase "of GENERAL APPLICATION" so that those which have special laws cannot avail or invoke this provision. As a specific example: There is a decree that gives a substantial gratuity to constitutional offices like the COMELEC which was however fortunately caught in time by the incoming Commissioners which gave them a large gratuity upon their separation which was very much larger than would have been if the laws on general application had been applied.

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: How then do we conceptualize this phrase "laws of GENERAL APPLICATION," as well as the illustrations thereof? That might raise some doubt on what would be invoked as the basis for their benefits.

THE PRESIDING OFFICER (Mr. Colayco): Is Commissioner Regalado pressing his proposal?

MR. REGALADO: No, I am inquiring from Commissioner Monsod just exactly, because he does not agree to the phrase "APPLICABLE LAWS" but he would prefer to retain the phrase "laws of GENERAL APPLICATION." So I am asking for the conceptualization or illustration of what he considers the laws of general application so that it will go into the record as the intendment of the Commission to be the basis of these retirement or gratuity benefits.

MR. MONSOD: As I understand it, there are certain laws in the GSIS that apply to everybody in the career civil service, and this is what we mean. In effect, we are excluding the special laws that give special privileges.

THE PRESIDING OFFICER (Mr. Colayco): All right, how does the committee react to the proposal of Commissioner Monsod.

MR. SUAREZ: The committee accepts the proposal of Commissioner Monsod?

THE PRESIDING OFFICER (Mr. Colayco): Will the committee please read it.

MR. RAMA: May I request that Commissioner Monsod be recognized to read.

THE PRESIDING OFFICER (Mr. Colayco): All right Commissioner Monsod will please do so.

MR. MONSOD: The section will read: "CAREER Civil Service employees separated from the service NOT FOR CAUSE BUT as a result of the reorganization pursuant to Proclamation No. 3 issued on March 25, 1986, and the reorganization following the ratification of this Constitution SHALL be entitled to APPROPRIATE separation pay AND to retirement and other benefits accruing to THEM under the laws OF GENERAL APPLICATION in force at the time of THEIR separation. IN LIEU THEREOF THEY MAY BE CONSIDERED FOR EMPLOYMENT IN THE GOVERNMENT OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES. THIS PROVISION ALSO APPLIES TO CAREER OFFICERS WHOSE RESIGNATIONS TENDERED IN LINE WITH EXISTING POLICY HAD BEEN ACCEPTED."

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: With that reformulation, it appears that the separated employee will be at the mercy of the government, because the second sentence in effect allows the government to exercise an option to reemploy them.

And so, I would propose that the second sentence should read: "OR IN LIEU THEREOF, GIVE THEM THE OPTION."

MR. MAAMBONG: So, how would the second sentence read?

MR. DAVIDE: There must be a change in the second sentence to make it appear that it is not the government that is given the option, but it is the individual who must be given the option.

MR. MAAMBONG: How do we formulate that?

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: I believe that the words "IN LIEU THEREOF THEY MAY BE CONSIDERED" assume that the employee wants to be considered. So the employee may not be considered or may be considered, it does not say here that the government shall employ them.

MR. DAVIDE: We should delete the phrase "IN LIEU THEREOF" and we insert "THEY MAY LIKEWISE."

MR. MONSOD: I thought that the original intent was alternative, that is why the original phrase said "OR." So if they apply, and they are employed, they are not entitled to the retirement pay.

THE PRESIDING OFFICER (Mr. Colayco): All right, does Commissioner Davide insist?

MR. DAVIDE: Provided that the option is not given to the government.

MR. MONSOD: May I suggest an amendment to reflect that? We can say "IN LIEU THEREOF, ON THE OPTION OF THE EMPLOYEE, HE MAY BE CONSIDERED."

MR. DAVIDE: I agree.

MR. MAAMBONG: "AT THE OPTION"?

MR. MONSOD: Yes, "AT THE OPTION."

THE PRESIDING OFFICER (Mr. Colayco): Will Commissioner Monsod restate the amendment.

MR. MONSOD: "IN LIEU THEREOF, AT THE OPTION OF THE EMPLOYEE, HE MAY BE CONSIDERED."

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

MR. RAMA: The body is ready to vote on that provision.

MR. SARMIENTO: Mr. Presiding Officer, before we vote, may I just ask one question?

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

MR. SARMIENTO: Commissioner Foz enumerated the positions covered by the career service. He enumerated seven classifications. However, in his enumeration, he did not mention justices and judges. May I know from the committee under what classification will justices and judges who are presidential appointees be covered because what we have under this amendment are career civil service employees and career officers?

THE PRESIDING OFFICER (Mr. Colayco): Does Commissioner Foz want to say anything?

MR. FOZ: May I answer for the committee?

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

MR. FOZ: There is a provision here which falls under the classification of career service which we may interpret to cover also the members of the judiciary. This provision reads: "Career officers, other than those in the Career Executive Service, who are appointed by the President." But I have been informed by Commissioner Nollado who just passed by a few seconds ago, intentionally, of course, that members of the judiciary are covered by a separate law which is the Judiciary Reorganization Act.

THE PRESIDING OFFICER (Mr. Colayco): The Chair confirms that.

MR. SARMIENTO: So, I am made to understand that justices and judges who have resigned will not be covered by this section?

MR. SUAREZ: That is right.

MR. SARMIENTO: Thank you.

MR. MAAMBONG: May we ask for a vote now, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): Is the reformulated section clear to everybody?

MR. SUAREZ: Let us read it again, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco): All right. Will Commissioner Monsod please read the new reformulation as accepted by the committee?

MR. MONSOD: It would read: "CAREER civil service employees separated from the service NOT FOR CAUSE BUT as a result of the reorganization pursuant to Proclamation No. 3 issued on March 25, 1986 and the reorganization following the ratification of this Constitution SHALL be entitled to APPROPRIATE separation pay AND to retirement and other benefits accruing to THEM under the laws of GENERAL APPLICATION in force at the time of THEIR separation. IN LIEU THEREOF, AT THE OPTION OF THE EMPLOYEES, THEY MAY BE CONSIDERED FOR EMPLOYMENT IN THE GOVERNMENT OR IN ANY OF ITS SUBDIVISIONS, INSTRUMENTALITY OR AGENCY INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES. THIS PROVISION ALSO APPLIES TO CAREER OFFICERS WHOSE RESIGNATIONS TENDERED IN LINE WITH THE EXISTING POLICY HAVE BEEN ACCEPTED."

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

MS. QUESADA: Just a minor correction. Instead of "he," can we use THEY? Instead of "employee," we use EMPLOYEES so it will not be a "he" or a "she."

MR. MONSOD: Yes, they are all in the plural.

VOTING

THE PRESIDING OFFICER (Mr. Colayco): All right, as many as are in favor of the final reformulation of the proposed Section 10, 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 35 votes in favor and none against; Section 10, as amended, is approved.

NOMINAL VOTING ON THE ARTICLE ON EDUCATION

ON THIRD READING

(Article on Education, Science, Technology, Sports, Arts and Culture)

MR. RAMA: I move that we vote on Third Reading on the Article on Education, Science, Technology, Sports, Arts and Culture.

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

Printed copies of the Article on Education, Science, Technology, Sports, Arts and Culture were distributed on September 26, 1986 pursuant to Section 28, Rule VI of the Rules of the Constitutional Commission.

Voting on the article on Third Reading is, therefore, in order.

The Secretary-General will read the title of the resolution.

THE SECRETARY-GENERAL: The resolution reads:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION AN ARTICLE ON EDUCATION, SCIENCE, TECHNOLOGY, SPORTS, ARTS AND CULTURE

FIRST ROLL CALL

THE PRESIDING OFFICER (Mr. Colayco): The body will now vote on the article and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar
Yes Garcia Yes
Alonto Gascon
Aquino Yes Guingona Yes
Azcona Yes Jamir Yes
Bacani
Laurel Yes
Bengzon Lerum
Bennagen Yes Maambong Yes
Bernas Monsod Yes
Rosario Braid Muñoz Palma
Calderon Natividad
Castro de Yes Nieva
Colayco Yes Nollado Yes
Concepcion Yes Ople Yes

Davide Yes Padilla

Foz Yes

COMMISSIONER PADILLA EXPLAINS HIS VOTE

MR. PADILLA: Mr. Presiding Officer, I vote yes, but I invite attention that under "Language," page 5 Section 8 says:

Official Languages. For purposes of communication and instruction, the official languages of the Philippines are Filipino and, until otherwise provided by law, English.

I think we forgot the words "AND SPANISH." Presently, the three official languages are Filipino, English and Spanish. It should be "ENGLISH AND SPANISH."

THE SECRETARY-GENERAL, reading:

Quesada

Yes Suarez Yes

Rama Yes Sumulong

Regalado Tadeo

Reyes de los Tan

Rigos Tingson

Rodrigo Treñas

Romulo Uka Yes

Rosales Villacorta

Sarmiento Yes

COMMISSIONER VILLACORTA EXPLAINS HIS VOTE

MR. VILLACORTA: I vote yes. I just would like to point out that we did not forget Spanish. I rechecked the Journal and there was no mention of Spanish.

THE SECRETARY-GENERAL, reading:

Villegas

SECOND ROLL CALL

THE PRESIDING OFFICER (Mr. Colayco): The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Alonto

Reyes de los Yes

Bacani Rigos
Bengzon Yes Rodrigo
Bernas Romulo Yes
Rosario Braid Yes Rosales
Calderon Sumulong Yes
Gascon Yes Tadeo
Lerum Yes Tan
Muñoz Palma Yes Tingson
Natividad Treñas Yes
Nieva Yes Villegas
Regalado Yes

APPROVAL OF THE ARTICLE ON EDUCATION ON THIRD READING

(Article on Education, Science, Technology, Sports Arts and Culture)

THE PRESIDING OFFICER (Mr. Colayco): The results show 35 votes in favor and none against.

The Article on Education, Science, Technology, Sports, Arts and Culture is approved on Third Reading.

MR. RAMA: Mr. Presiding Officer.

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

SUSPENSION OF SESSION

MR. RAMA: Mr. Presiding Officer, I move for a suspension of the session until 2:30 p.m.

THE PRESIDING OFFICER (Mr. Colayco): Is there any objection? (Silence) The Chair hears none; the session is suspended until 2:30 p.m.

It was 12:41 p.m.

RESUMPTION OF SESSION

At 3:05 p.m., the session was resumed with the Honorable Francisco A. Rodrigo presiding.

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

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: I move that we continue the consideration of Committee Report No. 38 on the Article on Transitory Provisions. We are now in the period of amendments.

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

The body will now continue the consideration of Committee Report No. 38 on the Article on Transitory Provisions.

MR. RAMA: We are now on Section 11. May I ask that the committee chairman read Section 11.

MR. SUAREZ: Mr. Presiding Officer.

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

MR. SUAREZ: Section 11 reads:

All records, equipment, buildings, facilities and other properties of the Office of the Prime Minister and the defunct Batasang Pambansa and interim Batasang Pambansa are hereby transferred to Congress.

This is, by its very nature, transitory in character because of the abolition of the Office of the Prime Minister and the Batasang Pambansa.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: May I just explain that this section is based on Resolution No. 487 filed by Commissioner Davide but actually, it is only a recopy of the provisions of the Freedom Constitution which I would like to insert for the record. Under Article III, Section 4 of the Freedom Constitution or Proclamation No. 3, it reads:

The records, equipment, buildings, facilities and other properties of all government offices shall be carefully preserved. In case any office or body is abolished or reorganized pursuant to this Proclamation, its funds and properties shall be transferred to the office or body to which its powers, functions, and responsibilities substantially pertain.

May we ask that Commissioner Davide be recognized?

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

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

On Section 11, I would simply propose to delete the words "and interim Batasang Pambansa." I remember that the interim Batasang Pambansa earlier was taken over by the defunct Batasang Pambansa. So, in short, all the records, equipment, buildings, facilities and other properties of the interim Batasang Pambansa were actually turned over to the regular Batasang Pambansa.

MR. SUAREZ: On the strength of the Commissioner's revelation, can we put a comma after adding the words "INCLUDING THOSE OF THE interim Batasang Pambansa"?

MR. DAVIDE: That would be acceptable.

MR. SUAREZ: Thank you.

MR. JAMIR: Mr. Presiding Officer.

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

MR. JAMIR: May I know whether the properties in the Office of the Speaker are included among those enumerated here?

MR. SUAREZ: "Office of the Speaker" would refer to the Batasang Pambansa.

MR. JAMIR: So its properties are included?

MR. SUAREZ: They are necessarily included.

MR. JAMIR: Thank you.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: May I propose another amendment.

THE PRESIDING OFFICER (Mr. Rodrigo): We have not voted on the Commissioner's previous amendment yet.

Is there any objection to the proposed amendment of Commissioner Davide? Please restate the amendment.

MR. NOLLEDO: Mr. Presiding Officer.

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

MR. NOLLEDO: May I ask Commissioner Davide some questions with respect to Section 11?

MR. DAVIDE: On my proposed amendment only, not the whole of Section 11. As a matter of fact, my amendment is amended further by the committee.

MR. NOLLEDO: No. I understand from Commissioner Maambong that Section 11 was based on the Commissioner's resolution. Am I right?

MR. DAVIDE: Yes, partly.

MR. NOLLEDO: At any rate, if the Commissioner feels that it should be the committee that should answer the questions, then he can refer to the committee. But in the meantime, I will propound the questions to the Commissioner.

MR. DAVIDE: Thank you. I am willing to yield.

MR. NOLLEDO: Thank you.

It states here that the Office of the Prime Minister shall also be transferred to Congress. That includes the records, equipment, et cetera. I would like to ask the Commissioner about this because in 1984, the 1973 Constitution was amended wherein the powers of the President and the powers of the Prime Minister were vested in one man thus leading to the Supreme Court ruling that our system of government was truly presidential and not parliamentary and that the parliamentary system was never given a chance to operate in this country. And, therefore, our government then being presidential in nature, would it be appropriate in Section 11 to state that the records, equipment, et cetera, pertaining to the Office of the Prime Minister and which form part of the Office of the President under the 1984 amendments should also go to Congress?

MR. DAVIDE: Just one slight correction. The merger of the Office of the President and the Office of the Prime Minister was not by virtue of the 1984 amendments but by virtue of the 1976 amendments. In 1984, there was an amendment on the Vice-Presidency and the position of the Prime Minister was restored in its entirety under the 1981 amendments, if I am not mistaken.

MR. NOLLEDO: Then I stand corrected and the question is still appropriate, if the Commissioner does not mind because I think what should count now is the latest amendment that the Office of the Prime Minister was really considered part and parcel of the Office of the President as mentioned by the Commissioner. And, therefore, it

seems that it would be inappropriate to state here that the records, et cetera of the Office of the Prime Minister should likewise go to the Congress. Is the Commissioner aware that the Supreme Court already ruled that our system of government was really presidential? Besides, the Office of the Prime Minister is now being occupied by the incumbent Vice-President.

MR. DAVIDE: That was a decision of the Supreme Court by virtue of the 1976 amendments. Of course, I know for a fact that the Prime Minister held office here in the Batasang Pambansa because he was a Member of the Batasang Pambansa. I refer to the interim Batasang Pambansa. He had his oval at the back of the President's rostrum. I do not know about the regular Batasang Pambansa.

MR. NOLLEDO: May I make a correction, if the Commissioner does not mind? I understand that the case of Free Telephone Worker's Union vs. Minister of Labor and Employment dated October 30, 1981, was decided by the Supreme Court in the light of the 1981 amendments adverted to by the Commissioner. Speaking through Chief Justice Enrique Fernando, the Supreme Court ruled that our system of government was truly presidential and that the Office of the Prime Minister in effect pertained to the Office of the President. I would like the committee to please take this into account.

MR. DAVIDE: To avoid any doubt about possible interpretation, may I just propose for the reincorporation of Section 14 of Article XVII of the 1973 Constitution which reads:

All records, equipment, buildings, facilities, and other properties of any office or body abolished or reorganized under this Constitution shall be transferred to the office or body to which its powers, functions and responsibilities substantially pertain.

However, after "under" add the words "THE FREEDOM CONSTITUTION OR THIS CONSTITUTION."

MR. NOLLEDO: I would agree with that.

MR. DAVIDE: So in lieu of Section 11, I propose the following substitute proposal: "ALL RECORDS, EQUIPMENT."

THE PRESIDING OFFICER (Mr. Rodrigo): Just a minute. Is the Commissioner now withdrawing his previous proposed amendment?

MR. DAVIDE: Yes, in view of the observation of Commissioner Nolleddo, I am proposing a new formulation in lieu of Section 11 which would be jointly authored with Commissioner Nolleddo. It will read as follows: "ALL RECORDS, EQUIPMENT, BUILDINGS, FACILITIES, AND OTHER PROPERTIES OF ANY OFFICE OR BODY ABOLISHED OR REORGANIZED UNDER PROCLAMATION NO. 3 ISSUED ON MARCH 25, 1986 OR THIS CONSTITUTION SHALL BE TRANSFERRED TO THE OFFICE OR BODY TO WHICH ITS POWERS, FUNCTIONS, AND RESPONSIBILITIES SUBSTANTIALLY PERTAIN."

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

MR. SUAREZ: Yes, the committee accepts the proposal.

MR. ROMULO: Mr. Presiding Officer.

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

MR. ROMULO: What about the liabilities or obligations of the Batasang Pambansa?

MR. DAVIDE: That liability cannot be transferred to the new Congress because the liability is within the budgetary obligations of the national government. And if the Commissioner is referring, however, to claims of the

regular Batasang Pambansa against its Speaker, as reported in the newspapers, that is not really a claim of the agency; it is a claim of the national government against whoever may have somehow had to account for the funds of the regular Batasang Pambansa.

MR. ROMULO: Would the Commissioner include possible claims of employees of the Batasang Pambansa — separation pay, claims for disability, and that sort of thing — as also a responsibility of the national budget?

MR. DAVIDE: I am not in a position to answer that question; I leave it to the committee.

MR. SUAREZ: Mr. Presiding Officer.

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

MR. SUAREZ: The Commissioner will notice that the wording is limited to "RECORDS, EQUIPMENT, BUILDINGS, FACILITIES, AND OTHER PROPERTIES." We are not talking here of liabilities or/and accountabilities of the offices that may have already been abolished.

MR. ROMULO: I am raising the question of whether we should, but I leave that headache to the committee.

MR. SUAREZ: No, I think it will not be fair to the next Congress to be answerable for the liabilities of those offices which may have already been abolished.

MR. ROMULO: Thank you.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: May I ask a question of Commissioner Nolleto.

MR. NOLLEDO: Willingly, Mr. Presiding Officer.

MR. RAMA: The Commissioner was insisting that the records, equipment, buildings, facilities and other properties of the Office of the Prime Minister be transferred to the Office of the President?

MR. NOLLEDO: I am not exactly saying that, I wanted to avoid any future legal entanglements on the matter. That is why I made a suggestion to Commissioner Davide to make adjustments on his proposal.

MR. RAMA: At any rate, I heard the Commissioner say that this should properly belong to the Office of the President. Has the Commissioner checked whether President Aquino is willing to accept these records — some of which are fake and malodorous — and properties from the Prime Minister?

MR. NOLLEDO: Whether she is willing to accept them or not is beside the issue.

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

MR. NOLLEDO: Thank you.

MR. RAMA: May I ask Commissioner Davide to restate his amendment since there are no more registered speakers.

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

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

Section 11 is proposed to read as follows: "ALL RECORDS, EQUIPMENT, BUILDINGS, FACILITIES, AND OTHER PROPERTIES OF ANY OFFICE OR BODY ABOLISHED OR REORGANIZED UNDER

PROCLAMATION NO. 3 ISSUED ON MARCH 25, 1986 OR THIS CONSTITUTION SHALL BE TRANSFERRED TO THE OFFICE OR BODY TO WHICH ITS POWERS, FUNCTIONS, AND RESPONSIBILITIES SUBSTANTIALLY PERTAIN."

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

MR. MAAMBONG: Mr. Presiding Officer, we accept and we ask for a vote.

MR. AZCUNA: Mr. Presiding Officer.

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

MR. AZCUNA: I would like to know from the committee whether the term "PROPERTIES" here includes lands. Since these are all personal properties, except perhaps buildings, would the inclusion of lands — supposing the land on which this Batasan building is built is owned by the Batasan — have to go to Congress? The enumeration does not seem to include lands.

MR. SUAREZ: No, that may fall within the classification of "OTHER PROPERTIES"; "Lands" would be included but it would be under the administration of the proper office or offices.

MR. AZCUNA: Since the enumeration does not refer to real estate, it would seem that "OTHER PROPERTIES" would be of a similar nature to "RECORDS, EQUIPMENT, BUILDINGS, FACILITIES," and therefore would not include land. So, if the land belongs to the Batasang Pambansa, I think we should include land in the enumeration, ejusdem generis, of the same class.

MR. MAAMBONG: May we just comment on that. Normally, lands of the national government are really administered by the national government itself, and if I recall, the title of the land itself is in the name of the national government. However, the use of said lands is usually assigned to offices. So, one may have an office or a ministry sitting on a land, the title of which is in the name of the national government, but he cannot transfer this land. Even if the office will be transferred, the land will remain anyway.

But I think the Commissioner is referring to lands which may be in the name of that particular office.

MR. AZCUNA: Yes, that is right.

MR. MAAMBONG: It could also happen that way.

MR. AZCUNA: Yes, it could happen that way.

MR. MAAMBONG: Of course, this is an exceptional case. I think in this case, it should go to the new office. But what the Commissioner is trying to say is that we need a specific indication of that fact.

MR. AZCUNA: Yes.

MR. MAAMBONG: Then the committee is open to some amendments. We will hear them.

MR. AZCUNA: Just put the words "LANDS AND BUILDINGS," if there are lands belonging to the Batasan, because if there are none, then there is no need.

MR. NOLLEDO: Mr. Presiding Officer, may I make a remark on that?

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

MR. NOLLEDO: As stated by Commissioner Maambong, I think it is not necessary to indicate whether lands should pertain to a particular office because the use alone is property in itself. So whether it is the use or the land

itself that should be transferred would not matter much.

Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): Anyway, Commissioner Azcuna has not yet submitted this as an amendment.

MR. AZCUNA: Yes. I propose to add the word "LANDS," just in case there are lands. If there are none, then none will be transferred.

So, between the words "EQUIPMENT" and "BUILDINGS," add the word "LANDS" to read: "Equipment, LANDS, buildings, facilities and other properties."

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

MR. MAAMBONG: We are going over the formulation as recited by Commissioner Davide from the 1973 Constitution. We are also looking at the formulation which appears in Article III, Government Reorganization, of Proclamation No. 3 which is the Freedom Constitution, and it does not mention "LANDS."

Could we just reflect for the record that if said lands actually pertain to the office which has been abolished or reorganized, those lands will just go with the office itself?

MR. AZCUNA: I have a suggestion. Why do we not just say "ALL PROPERTIES OF THE OFFICE OF THE PRIME MINISTER AND THE DEFUNCT BATASANG PAMBANSA, INCLUDING RECORDS, EQUIPMENT, BUILDINGS, AND FACILITIES"? Therefore, the sentence will read: "ALL PROPERTIES OF THE OFFICE OF THE PRIME MINISTER AND THE DEFUNCT BATASANG PAMBANSA, INCLUDING RECORDS, EQUIPMENT, BUILDINGS, AND FACILITIES ARE HEREBY TRANSFERRED TO THE CONGRESS."

MR. SUAREZ: No, because we have already amended the words "interim Batasang Pambansa" to read "INCLUDING THOSE OF THE interim Batasang Pambansa."

MR. AZCUNA: Yes, so that will read: "ALL PROPERTIES OF THE OFFICE OF THE PRIME MINISTER AND THE DEFUNCT BATASANG PAMBANSA, INCLUDING THOSE OF THE INTERIM BATASANG PAMBANSA . . ." Why do we not also add the word "ASSETS" after the words ". . . facilities, and other . . ."?

MR. MAAMBONG: The committee has accepted this amendment of Commissioner Davide and we feel that the proposal of Commissioner Azcuna is acceptable, but we might just as well ask Commissioner Davide since he is the proponent. The suggestion would read: "All PROPERTIES, records, equipment, buildings, facilities, and other ASSETS of any office or body. . ." Would that be all right?

MR. DAVIDE: I would have no objection to that.

MR. MAAMBONG: Then, that is accepted by the committee.

MR. AZCUNA: Yes.

MR. MAAMBONG: So, we now ask for a vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Yes, will the committee please read the proposed amendment as reformulated?

MR. MAAMBONG: Section 11 would now read: "All PROPERTIES, records, equipment, buildings, facilities, and other ASSETS of any office or body abolished or reorganized under PROCLAMATION No. 3 issued on

MARCH 25, 1986 or this Constitution shall be transferred to the office or body to which its power, functions, and responsibilities substantially pertain."

MR. PADILLA: Mr. Presiding Officer.

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

MR. PADILLA: It seems that the new formulation referring to any office or body is based on Section 14 of the 1935 Constitution. Section 11, as proposed by the committee, has particular reference to the legislative. It mentions, specifically, the Office of the Prime Minister and the defunct Batasang Pambansa, including the interim Batasang Pambansa.

There was no similar provision, I believe, in the 1973 Constitution. What is the real intent and purpose of the committee to make this applicable to any office or body abolished or reorganized as stated in the 1973 Constitution, or is the intention to limit the other properties of the legislative?

MR. MAAMBONG: Let us take up the matter one by one. It is true that the committee report indicated the specific bodies; namely, the regular Batasang Pambansa and the interim Batasang Pambansa, but we were trying to envision a situation where, because of the reorganization under Proclamation No. 3 and some other reorganizations when this Constitution will be ratified, it would be much better to make a general provision. And that is why we accepted the amendment of Commissioner Davide.

Secondly, there was such a provision, citing specifically Article XVII, Section 14, of the 1973 Constitution. Allow me to repeat the committee thinking that we wanted a provision which is a catchall provision to apply to any government office which might be reorganized or abolished. That is why we opted for a general provision.

MR. PADILLA. So, the committee has changed from particular, the legislative, to any other office.

MR. MAAMBONG: Yes, in line with what is found in Proclamation No. 3.

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: May I seek a clarification from the committee? As presently formulated, those properties or assets of the offices which have been abolished will be transferred to another office where the functions of the former substantially pertain. What happens if there is no office that assumes substantially the same functions, as some may have been abolished, and if there is no substitute, there are no such functions?

MR. MAAMBONG: The Batasang Pambansa, for example, went to the Ministry of General Services. And in cases where the properties will become idle, they would go to the Board of Liquidators.

MR. REGALADO: Does the committee think that hiatus could be solved by adding the phrase "OR AS MAY BE PROVIDED BY LAW" to the original formulation?

MR. MAAMBONG: I will refer that to the chairman.

MR. SUAREZ: In other words, after the words "substantially pertain," we will put a comma and say "OR AS MAY BE PROVIDED BY LAW."

MR. REGALADO: Yes. That is to take care of those generic situations where there is no new office to take over the functions and responsibilities of the abolished office.

MR. SUAREZ: We accept the proposal.

MR. REGALADO: Thank you.

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

MR. RAMA: Yes, Mr. Presiding Officer, the body is ready to vote.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): The proposed amendment by substitution has been read.

As many as are in favor, 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 31 votes in favor and none against; the reformulated Section 11 is approved.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, Commissioner Bernas has registered as speaker on Section 12. May I ask that he be recognized?

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

FR. BERNAS: Mr. Presiding Officer, we just like to present an amendment to Section 12, and the amendment would be by addition of one sentence which will read: "THE PRESENTATION FOR RATIFICATION, HOWEVER, SHALL BE IN THREE DISTINCT PARTS: 1) THE ARTICLE ON SOCIAL JUSTICE; 2) THE ARTICLE ON NATIONAL ECONOMY; AND 3) ALL THE REST."

Just a word of explanation. If we will look at the record of the Constitutional Commission, we will find that perhaps the most controversial articles were the Article on Social Justice and the Article on National Economy. And these were also the articles which elicited much discussion outside, with the various sectors of the public expressing varied views on the matter. In addition to this we are quite conscious of the fact that we are not an elected body but rather an appointive body. For that reason there was lesser participation on the part of the people in the process of formulating this Constitution.

By packaging the Constitution into three parts, then we will be able to give to the electorate the opportunity for an individualized judgment on the various parts of the Constitution. I feel that whether we present a constitution as one package or in three packages, the Constitution will be accepted by the people. The advantage of separating this into three packages is that even if the controversial articles are separately ratified by the people, they will be felt as much stronger articles. We can say that this is not just the work of the Constitutional Commission; we can say that this was accepted by the people not via holdup but because the people really accept it for what it is.

We will also notice that the two articles that I have separated, the Articles on Social Justice and on National Economy, are articles which really can be separated, because even if the Article on Social Justice and the Article on National Economy were to be turned down by the people, we would still have a constitution complete by itself and which can stand by itself. Moreover, if the electorate does not accept the Articles on Social Justice and on National Economy, we would have to tell the people the alternative; namely, that then they would have to be accepting what is in effect now — the present Article on National Economy and Patrimony and the meager provision we have on social justice. And for these reasons, and especially to give the people the opportunity to voice their individualized judgment on the work of the Constitutional Commission, I propose that in presenting this Constitution to the people for their ratification, we present it in these three distinct packages.

MR. DE LOS REYES: Mr. Presiding Officer.

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

MR. DE LOS REYES: Mr. Presiding Officer, may I propound some questions to the honorable Commissioner Bernas.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: One of the controversial issues that will be discussed later is the term of office of the incumbent President and Vice-President I notice that said issue was not one of those mentioned by the Commissioner to be treated as a separate question.

FR. BERNAS: The understanding of the Commissioner the other day is that any discussion about the term of the President will be postponed after everything else has been discussed.

MR. DE LOS REYES: So, it is the Commissioner's stand that there is still a space for that particular question in his amendment.

FR. BERNAS: If a proper reservation is made and depending on the results of our discussions on Section 7, then that would still be a possibility.

MR. DE LOS REYES: So, assuming that we approve the Commissioner's amendment and then later on, in Section 7, we likewise agree to treat the question of incumbency as a separate question, that will mean an accommodation of four separate packages.

FR. BERNAS: If that is the decision of the Commission, that would be it.

MR. DE LOS REYES: I believe that we should defer the discussion of the Commissioner's amendment on Section 12 until we have finished with the discussion of Section 7.

FR. BERNAS: And in which case we defer discussion of all of Section 12 until we finish everything else?

MR. DE LOS REYES: Yes, that is my idea on the matter.

FR. BERNAS: I would have no difficulty with that, Mr. Presiding Officer.

MR. GUINGONA: Mr. Presiding Officer.

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

MR. GUINGONA: I was wondering whether the proposal of Commissioner Bernas should be discussed in relation to Section 12 here or whether it should be discussed under the Article on Amendment because whether the Constitution is amended as a whole or as suggested by the Commissioner, it would not affect this particular section because it just talks about "effectivity," it does not talk of the "manner of amendment." The manner of amendment is provided under the Article on Amendment.

FR. BERNAS: As a matter of fact, we are not talking about amendments but we are talking about the ratification of the entire Constitution.

MR. GUINGONA: I am sorry. I meant "ratification." What I meant was that this particular provision about ratification is contained in the Article on Amendment.

FR. BERNAS: The reason I believe it should be placed in the Article on Transitory Provisions is that it is a transitory provision. It self-destructs after the plebiscite.

MR. GUINGONA: Thank you.

MR. MONSOD: Mr. Presiding Officer.

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

MR. MONSOD: May I just ask some questions of the proponent, Mr. Presiding Officer.

FR. BERNAS: Willingly.

MR. MONSOD: If I understand correctly the Commissioner's proposal, one of the criteria for separating certain articles would be the controversial nature by reason of the records of the provisions in that article.

FR. BERNAS: Yes.

MR. MONSOD: Would any vote on any issue that can be separated, therefore, be the standard for determining if they should be voted on separately?

FR. BERNAS: While being controversial is one criterion, it is not the only criterion.

MR. MONSOD: What are the other criteria?

FR. BERNAS: Another criterion would be if they are separable from the rest of the Constitution.

MR. MONSOD: What about the bases issue?

FR. BERNAS: I believe that the final resolution of the bases issue was not that controversial. What was controversial was the total ban on bases.

MR. MONSOD: But if we take a look at the records, that is one of the issues where nominal voting was conducted. I am just wondering how firm or how clear the criteria would be.

FR. BERNAS: If the Commissioner will propose that the bases issue be also separated, I would not object to it.

MR. MONSOD: What about the issue on language?

FR. BERNAS: If somebody proposes that, we could debate on it.

MR. MONSOD: I suppose the Commissioner would not include the issue on bicameralism and unicameralism.

FR. BERNAS: That is very difficult to separate from the rest although we might consider reopening the matter by suspension of the Rules.

MR. MONSOD: I think if one were to examine the records thoroughly, there were many subjects that could be considered more controversial than the two that the Commissioner mentioned which are not very essential in running the government.

FR. BERNAS: That precisely is the answer to the Commissioner's very last clause "which are not very essential to the running of the government."

These two provisions are very central to the life of the nation that is why we separate them.

MR. MONSOD: What about the subject of the CHDF?

FR. BERNAS: I think that is rather an isolated instance.

MR. MONSOD: Would that qualify under the Commissioner's criteria?

FR. BERNAS: It would not, that is why I did not include it.

MR. MONSOD: Why not? Because it is a controversial vote?

FR. BERNAS: Because the matter is not as central, not as far-reaching as these two others. I myself am of the belief that the matter of the CHDF can be handled by ordinary executive action.

MR. MONSOD: In other words, we have these two so far, plus the possible term of the President, perhaps the term of the PCGG, plus several others including the bases issue, if that is raised.

At what point do we stop considering separate ratification?

FR. BERNAS: I think the Commission will know when to stop.

MR. MONSOD: I have one more question. When this body participates in the campaign for the ratification of the Constitution, would there be a rule that we will not speak against each other's position with respect to the separated clauses?

FR. BERNAS: I would be against such a rule because that would be violative of freedom of speech.

MR. MONSOD: In other words, in the campaign for ratification it would be entirely possible that two Commissioners on the same stage would be speaking against each other.

FR. BERNAS: It would be entirely possible and completely reflective of the truth, and we should not be afraid of the truth.

MR. MONSOD: Thank you.

MR. MAAMBONG: Mr. Presiding Officer.

PRESIDING OFFICER (Mr. Rodrigo): Commissioner Maambong is recognized.

MR. MAAMBONG: Considering that Commissioner Bernas has agreed to defer consideration, can we proceed to another section, unless there are other Gentlemen who would like to ask some questions.

MR. BENGZON: Mr. Presiding Officer.

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

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair wants to know if the consideration has been deferred.

MR. SUAREZ: It has not yet been deferred.

MR. MAAMBONG: Not yet, but Commissioner Bernas has stated that he has no objection to the deferment.

FR. BERNAS: But there was a motion on the part of Commissioner de los Reyes and I said I would not object to the motion. But if that is what the body wants, then I would not object.

MR. MAAMBONG: Then Commissioner de los Reyes may file the necessary motion.

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: I respectfully move that we defer the consideration of the Bernas amendment until after we have resolved the sections on the term of office of the President and Vice-President in Section 7.

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

MR. BENGZON: May I ask that the motion be put to a vote.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor of the motion to defer consideration of the Bernas amendment, please raise their hand. (Several Members raised their hand.)

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

As many as are abstaining, please raise their hand. (Two Members raised their hand.)

The results show 26 votes in favor, none against and 2 abstentions; the motion to defer consideration of the Bernas amendment is approved.

The Floor Leader is recognized.

MR. RAMA: We are now on Section 7.

REV. RIGOS: I have a question, Mr. Presiding Officer. Does the deferment of the Bernas proposal imply the deferment also of Section 12 in the committee report?

THE PRESIDING OFFICER (Mr. Rodrigo): What does Commissioner de los Reyes, the movant, say?

MR. DE LOS REYES: I would say yes, Mr. Presiding Officer.

MR. SUAREZ: Yes, because it represents the second sentence of Section 12.

REV. RIGOS: Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): So the consideration of Section 12 is likewise deferred.

MR. MAAMBONG: Mr. Presiding Officer, we had an agreement that we will defer consideration of Sections 7 and 8 and in the committee report there are some addenda which are not very controversial. So may I suggest to the Floor Leader that we go through these and hopefully we can finish them before we adjourn and later on we can take care of some other amendments presented to the committee.

MR. RAMA: I would like to ask Commissioner Maambong which sections he is referring to which are not controversial.

MR. MAAMBONG: I was conferring with the honorable chairman. I hope he will confirm what I think is not controversial. For example, in the addenda under No. 2, 2.1.(b), we have the section on the first election of the Senators and Members of the House of Representatives as presented by Commissioner Davide. The section reads:

The Senators, Members of the House of Representatives and the local officials elected in the first election shall serve for five years to expire at noon of June, 1992.

I wonder if Commissioner Davide is ready to present this formally on the floor.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Rodrigo): In order to give a chance to the Floor Leader to confer with the committee, the session is suspended.

It was 3:49 p.m.

RESUMPTION OF SESSION

At 3:51 p.m., the session was resumed.

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

MR. RAMA: Mr. Presiding Officer, according to the committee, there are some unnumbered or additional sections for the Transitory Provisions. May I ask the committee to state the proposed amendments.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: For purposes of identification, I will now read a section which we will temporarily indicate as Section 14. It reads: "THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES AND THE LOCAL OFFICIALS ELECTED IN THE FIRST ELECTION SHALL SERVE FOR FIVE YEARS, TO EXPIRE AT NOON OF JUNE ____ 1992."

This was presented by Commissioner Davide, so may we ask that Commissioner Davide be recognized.

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

MR. DAVIDE: Before going to the proposed amendment, I would only state that in view of the action taken by the Commission on Section 2 earlier, I am formulating a new proposal. It will read as follows "THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES AND THE LOCAL OFFICIALS FIRST ELECTED UNDER THIS CONSTITUTION SHALL SERVE UNTIL NOON OF JUNE 30, 1992."

I proposed this because of the proposed section of the Article on Transitory Provisions giving a term to the incumbent President and Vice-President until 1992. Necessarily then, since the term provided by the Commission for Members of the Lower House and for local officials is three years, if there will be an election in 1987, the next election for said officers will be in 1990, and it would be very close to 1992. We could never attain, subsequently, any synchronization of election which is once every three years.

So under my proposal we will be able to begin actual synchronization in 1992, and consequently, we should not have a local election or an election for Members of the Lower House in 1990 for them to be able to complete their term of three years each. And if we also stagger the Senate, upon the first election it will result in an election in 1993 for the Senate alone, and there will be an election for 12 Senators in 1990. But for the remaining 12 who will be elected in 1987, if their term is for six years, their election will be in 1993. So, consequently we will have elections in 1990, in 1992 and in 1993. The later election will be limited to only 12 Senators and of course to the local officials and the Members of the Lower House. But, definitely, thereafter we can never have an election once every three years, therefore defeating the very purpose of the Commission when we adopted the term of six years for the President and another six years for the Senators with the possibility of staggering with 12 to serve for six years and 12 for three years insofar as the first Senators are concerned. And so my proposal is the only way to effect the first synchronized election which would mean, necessarily, a bonus of two years to the Members of the Lower House and a bonus of two years to the local elective officials.

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

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Thank you.

During the discussion on the legislative and the synchronization of elections, I was the one who proposed that in order to synchronize the elections every three years, which the body approved — the first national and local officials to be elected in 1987 shall continue in office for five years, the same thing the Honorable Davide is now proposing. That means they will all serve until 1992, assuming that the term of the President will be for six years and continue beginning in 1986. So from 1992, we will again have national, local and presidential elections. This time, in 1992, the President shall have a term until 1998 and the first 12 Senators will serve until 1998, while the next 12 shall serve until 1995, and then the local officials elected in 1992 will serve until 1995. From then on, we shall have election every three years.

So, I will say that the proposition of Commissioner Davide is in order, if we have to synchronize our elections every three years which was already approved by the body.

Thank you, Mr. Presiding Officer.

MR. GUINGONA: Mr. Presiding Officer.

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

MR. GUINGONA: May I ask one or two questions of the distinguished proponent, Commissioner Davide.

MR. DAVIDE: Willingly.

MR. GUINGONA: The purpose of this proposed section, according to the Commissioner and to which I agree, is synchronization.

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. GUINGONA: But we have not yet taken up the proposed provision as far as the incumbent President and Vice-President are concerned, which is Section 7. And Section 7 says that the incumbent President and Vice-President shall hold office for a term of six years starting at noon of February 25, 1986 until noon of February 25, 1992, whereas the term of office as per the Commissioner's suggestion here would seem to be at noon of June 1992.

MR. DAVIDE: If the Commissioner will note, the committee proposal is punctuated with an asterisk and it is subject to synchronization of election.

MR. GUINGONA: What will be synchronized, therefore, is the election of the incumbent President and Vice-President in 1992.

MR. DAVIDE: Yes.

MR. GUINGONA: Not the reverse. Will the committee not synchronize the election of the Senators and local officials with the election of the President?

MR. DAVIDE: It works both ways, Mr. Presiding Officer. The attempt here is on the assumption that the provision of the Transitory Provisions on the term of the incumbent President and Vice-President would really end in 1992.

MR. GUINGONA: Yes.

MR. DAVIDE: In other words, there will be a single election in 1992 for all, from the President up to the municipal officials.

MR. GUINGONA: Yes, I agree. The only question is whether the election will be held before February or before

June. In other words, there are two lists.

MR. DAVIDE: That would be the question.

MR. GUINGONA: Yes.

MR. DAVIDE: Anyway, the assumption of office will nevertheless be on June 30, 1992.

MR. GUINGONA: Even for the new President and Vice-President?

MR. DAVIDE: I am not in a position to answer that question because that is still a subject matter of further discussion but it is only on that particular assumption that they will have a term expiring in 1992.

MR. GUINGONA: My point is: If we decide at the end of June of 1992 and we are thinking of synchronization, then perforce we would have the term of office of the next elected President and Vice-President begin in June, which means that we would, in effect, be already extending the term of the President and the Vice-President to June of 1992.

MR. DAVIDE: On the assumption that this Commission will approve the committee recommendation on fixing the term of the President and the Vice-President, I would only say that they will have a holdover position up to June 30, 1992 starting February 25, 1992.

MR. GUINGONA: Thank you.

MR. AZCUNA: Mr. Presiding Officer.

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

MR. AZCUNA: Thank you.

I would like to ask the proponent a few questions. Is it necessary to say for five years here since in our previous agreement or approval, we have granted the President the right to schedule the election for local elective officials which may not coincide with that of the national officials?

MR. DAVIDE: I have reformulated the proposal.

MR. AZCUNA: May I hear the proposal?

MR. DAVIDE: Precisely to remedy that particular situation, the proposal now reads: "THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES, AND LOCAL OFFICIALS FIRST ELECTED UNDER THIS CONSTITUTION SHALL SERVE UNTIL NOON OF JUNE 30, 1992."

MR. AZCUNA: Thank you. That is all, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): There is a proposed amendment. What does the committee say?

MR. SUAREZ: May we clear up a few points with the distinguished proponent. As envisioned by the Commissioner, the positions of Senators, Members of the House of Representatives, local officials and inevitably the positions of President and Vice-President would be affected.

MR. DAVIDE: In effect, yes, because we have to reduce the term of the first Senators to only five years.

MR. SUAREZ: Thank you.

MR. DAVIDE: But we increase the term of the Members of the Lower House and local officials from three to five years.

MR. SUAREZ: And the take-off period for this synchronization of elections will be in the month of June 1992.

MR. DAVIDE: It will begin from noon of June 30, 1992. That is correct. Mr. Presiding Officer.

MR. SUAREZ: If under Section 7 the Commission will agree to recognize the tenure of the President and the Vice-President up to February 25, 1992, necessarily under the Gentleman's proposal in the matter of synchronization of even the presidential and the vice-presidential elections, they would get a bonus of something like four months?

MR. DAVIDE: Four months; during a holdover.

MR. SUAREZ: And the Gentleman will consider that a holdover term?

MR. DAVIDE: Yes, Mr. Presiding Officer, but to avoid stating a "holdover" probably when we will take up Section 7, we will just define the term ending June 30, 1992.

MR. SUAREZ: Thank you.

MR. DAVIDE: Instead of February 25, 1992.

MR. SUAREZ: In addition to the President and the Vice-President getting a "bonus," in a manner of speaking, there would also be the Members of Congress and also the local officials who would be getting a two-year "bonus," because under the Gentleman's proposal, they would be having a tenure of only three years from May of 1987.

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

MR. SUAREZ: On the other hand, the reverse is true in connection with the Senators whose term of six years would be necessarily reduced only to five years?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. SUAREZ: So, the only one who may be prejudiced here would be the Senators, if at all.

MR. DAVIDE: If at all, yes, and only 24 of them.

MR. DE CASTRO: Only 12 of them.

MR. DAVIDE: Only 24 of them.

MR. SUAREZ: Twenty-four, because under the first . . .

MR. DE CASTRO: Twelve, because the first 12 will serve for six years and the rest will serve for three years.

MR. BENGZON: No.

MR. DAVIDE: No, Mr. Presiding Officer, because the five-year term will apply to the first 24 Senators elected.

MR. DE CASTRO: Correct.

MR. DAVIDE: We will not allow the staggering before 1992. The staggering of the Senate will only begin in the election of 1992, meaning that of the 24 Senators elected in the senatorial election of 1992, the first 12 obtaining the highest number of votes will serve for the full term of six years, but the last 12 will serve only for a term of three years. So that every three years thereafter from 1992, we will have an election.

MR. SUAREZ: Last point of inquiry to the Honorable Davide.

From 1987 up to 1992, as envisioned under the Gentleman's proposal, will there be no local or national election?

MR. DAVIDE: None, Mr. Presiding Officer.

MR. SUAREZ: And the second local and national elections will be held in 1992?

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

MR. SUAREZ: Prior to June 30, 1992?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. SUAREZ: Thank you.

MR. BENGZON: Mr. Presiding Officer.

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

MR. BENGZON: I just want to clarify or refine that statement made by Commissioner Suarez that the local officials may not necessarily get a bonus of two years. If the President decides to hold the local elections in 1988 for the local officials, then necessarily, the local officials will only have a term of four years. Am I not correct?

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

MR. BENGZON: Thank you.

MR. DAVIDE: That is exactly the reason why I reformulated the section in accord with the observation of Commissioner Azcuna.

MR. SUAREZ: And deleted the five-year term?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. BENGZON: Thank you.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Thank you.

While I agree on this formulation because we shall be able to synchronize every three years, I suggest that we first resolve Section 7 before we go to this amendment of Commissioner Davide because in this amendment we are trying to assume that Section 7 is approved by the body, which is the subject of many contentions. So that before we act on this, I suggest that we first resolve Section 7.

Thank you Mr. Presiding Officer.

MR. DAVIDE: I really would have no objection to that because as I said earlier, this proposal is on the assumption that Section 7 will be approved by the Commission.

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

MR. RAMA: I would like to have the reaction of the committee because earlier the committee was saying that there was a previous understanding that Section 7 would be the last to be taken up because it is a little controversial.

SUSPENSION OF SESSION

MR. SUAREZ: May we have a suspension of one minute so we can clear up the parliamentary situation, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The session is suspended for a minute.

It was 4:10 p.m.

RESUMPTION OF SESSION

At 4:12 p.m., the session was resumed.

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

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: I am willing to withdraw my suggestion a while ago provided that the proposal of Commissioner Davide is subject to adjustment when we already decide Section 7 of the committee report.

MR. SUAREZ: Thank you.

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

MR. RAMA: May I ask that Commissioner Davide restate his amendment so we can take a vote on it.

MR. DAVIDE: Thank you, Mr. Presiding Officer. Subject to the reservation made by Commissioner de Castro, it reads: "THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES, AND THE LOCAL OFFICIALS FIRST ELECTED UNDER THIS CONSTITUTION SHALL SERVE UNTIL NOON OF JUNE 30, 1992."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): 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 22 votes in favor, 1 against and 1 abstention; the proposed amendment is approved.

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

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

FR. BERNAS: Mr. Presiding Officer, this morning a copy of the resolution was distributed to all the Members of the Commission and the substance of the resolution reads: "ALL THOSE WHO SERVED AS MEMBERS OF THE 1986 CONSTITUTIONAL COMMISSION SHALL NOT BE QUALIFIED TO RUN FOR ANY NATIONAL OFFICE IN THE FIRST NATIONAL ELECTION TO BE HELD UNDER THIS CONSTITUTION."

And the focus of this was really on national offices because it is the position of this Representation that any disqualification imposed outside of the Constitution would not really be effective because the qualifications for

the national offices are dictated by the Constitution. And the resolution is signed by 23 Members. However, considering the nature of this resolution, I think it will be very difficult for anybody to publicly vote against it. And so, rather than present this as an amendment, I would just like to make a manifestation that this matter should be left to individual private devotion. Thank you, Mr. Presiding Officer. (Laughter)

MR. GUINGONA: Mr. Presiding Officer.

FR. BERNAS: Mr. Presiding Officer, unless any of those who signed this resolution would prefer to push it.

MR. GUINGONA: Mr. Presiding Officer.

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

MR. GUINGONA: When I was presented that proposed resolution, I requested the distinguished proponent to let me see the citation. And so, I was not able to sign. I would like to manifest that if that is pushed through, I will sign. I would be in favor of that resolution.

THE PRESIDING OFFICER (Mr. Rodrigo): Anyway, that has not been pushed through so let us go to the next item.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, may I ask that Commissioner Davide be recognized for the next item.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: This is just a paragraph of that section that will follow what had earlier been approved. It reads: "OF THE SENATORS ELECTED IN THE ELECTION IN 1992, THE FIRST TWELVE OBTAINING THE HIGHEST NUMBER OF VOTES SHALL SERVE FOR SIX YEARS AND THE REMAINING TWELVE FOR THREE YEARS."

This is to start the staggering of the Senate to conform with the idea of a continuing Senate.

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

MR. SUAREZ: The committee accepts the Davide proposal, Mr. Presiding Officer.

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

MR. SUAREZ: May we submit that to a vote?

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor of the Davide amendment, please raise their hand. (Several Members raised their hand.)

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

The results show 25 votes in favor and none against; the proposed amendment is approved.

MR. SUAREZ: Mr. Presiding Officer, may we clear up with the Honorable Davide if that would represent the second paragraph of what is tentatively numbered Section 14 or is it a different section altogether?

MR. DAVIDE: It is suggested that it should be a second paragraph of what had earlier been approved.

MR. SUAREZ: Thank you.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: May I note, with the Gentleman's indulgence, the frequent use of the term "bonus" both by the proponent and the committee in the course of the amendment period. I think "bonus" should be read here in the context of an extension. The term "bonus" presupposes some minimum standard of good performance that has been achieved and I think it would be rather inappropriate to use in connection with the terms of people we do not yet know and who have not yet performed. So I just thought that this should be put on record, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Let it be on record.

The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Ople be recognized to present a new item.

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

MR. OPLE: Mr. Presiding Officer, this is a proposed amendment authored by President Muñoz Palma, Commissioners Nollado, Guingona and myself. It reads as follows: "THE FIRST LOCAL ELECTIONS AS PROVIDED FOR IN THIS ARTICLE SHALL INCLUDE THE ELECTION OF MEMBERS OF THE CITY OR MUNICIPAL COUNCILS IN THE NATIONAL CAPITAL REGION IN ACCORDANCE WITH THE ARTICLE ON LOCAL GOVERNMENTS." And then a second paragraph: "THE PRESIDENT MAY, IN THE EXERCISE OF THE POWERS PROVIDED UNDER SECTION 2 OF THIS ARTICLE BY EXECUTIVE ORDER, CONSTITUTE THE METROPOLITAN AUTHORITY TO BE COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS COMPRISED BY THE NATIONAL CAPITAL REGION."

May I say a few words to explain the amendment, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Rodrigo): Please proceed.

MR. OPLE: Thank you.

The Article on Local Governments which we have approved on Second Reading provides for the revival of the city and municipal councils abolished in 1975 under P.D. No. 854, creating the Metropolitan Manila Commission. The intention of this amendment is just to insure that when the local elections take place as may be determined by the President and which may be simultaneous with the first national elections, the councils will already be voted upon. The alternative, Mr. Presiding Officer, is to wait for a law to be enacted by Congress resulting in a delay which will be unacceptable to more than four million voters in Metro Manila and will prolong a setup widely condemned for having left out the fundamental right of Metro Manilans to have their own legislative assemblies.

In the second paragraph, the President is mandated to provide for the organization of a metropolitan authority that will take the place of the existing Metropolitan Manila Commission. By common agreement among the mayors or the OICs of Metropolitan Manila, this council shall consist of the mayors of the cities and municipalities comprising the region. Under the Article on Local Governments which we have already approved, the powers of this council will largely be limited to the coordination of basic services common to all or several of the component units such as zoning, peace and order, traffic control, garbage collection and education and health. The President's executive order will not preclude the enactment of a law by Congress later which will put the charter

for Metro Manila on a more permanent or enduring basis.

May I seek the committee's approval.

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

MR. SUAREZ: Mr. Presiding Officer, may we just clear up a few matters here.

MR. OPLE: Yes. Copies of this were distributed yesterday to all Commissioners.

MR. SUAREZ: Under existing laws, are there no municipal councils in the national capital region?

MR. OPLE: Yes, the municipal councils were abolished, if the Gentleman will recall, in 1975 under P.D. No. 854, creating the Metropolitan Manila Commission.

MR. SUAREZ: And is that the reason for the existence of the second paragraph of the proposal? Would the Gentleman want the President, by executive order, to constitute the metropolitan councils?

MR. OPLE: Yes. I am not referring to the first paragraph of the metropolitan council but to the old city and municipal councils which were abolished in 1975. Now, to take the place of the Metropolitan Manila Commission with its nearly absolute powers over all component cities and municipalities, Section 9 of the Article on Local Governments provides for a metropolitan authority or council which, under this section, shall be composed of the heads of all local government units in the National Capital Region. Meaning, in effect, this is an interim authority until Congress shall enact the law that will provide for this metropolitan authority on a more permanent basis.

MR. SUAREZ: As I recall, there were 13 municipalities which were absorbed in the Metro Manila unit, and there were about four cities that were similarly absorbed. So, under the Gentleman's proposal in paragraph (1), he would want the respective city or municipal councils of these 13 municipalities and four cities to be revived and reinstated and, therefore, in the first local elections, the election of those particular city or municipal council officers should be included.

MR. OPLE: Yes, Mr. Presiding Officer, they are already revived in Section 9 of the Article on Local Governments. But in the first paragraph, we propose that these councils be already voted upon in the first local elections that will be established under this Constitution.

MR. SUAREZ: Can we not make it more specific, Mr. Presiding Officer? This is only by way of suggestion inasmuch as the provision in the Article on the Legislative is permanent in character without providing it here in the Transitory Provisions. It will not refer only to the first local elections but for subsequent elections as far as the city and municipal councils representing the National Capital Region are concerned.

MR. OPLE: Yes, but it is transitory in character in the sense that without this transitory provision, the election of the municipal and city councils may not be provided in the coming first local elections. We want to make sure that the people of Metro Manila will be entitled to vote for their municipal and city councils in the first local elections. I anticipate that beyond that point there will be a law to be enacted by Congress which will provide not only for Metro Manila but for all other metropolitan regions that may be created under Section 9 of the Article on Local Governments.

MR. SUAREZ: Thank you. With that explanation the committee is ready to accept the proposal, Mr. Presiding Officer.

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

MR. MAAMBONG: Just one more point of clarification, Mr. Presiding Officer.

When we say "city or municipal councils," we are referring to all traditional officials like the city mayor, the vice-mayor and members of the Sangguniang Panlungsod in the city and the members of the Sangguniang Bayan in the towns; is that it, Mr. Presiding Officer?

MR. OPLE: Yes, except that we particularly refer to the members of the municipal council other than the mayor and the vice-mayor, because the election of the mayor and the vice-mayor is fairly assured in the first local elections. I mean without a transitory provision they will be voted upon anyway.

MR. MAAMBONG: I see.

MR. OPLE: With this transitory provision we insure that the members of the municipal council other than the mayor and the vice-mayor will also be voted upon in the first local elections.

MR. MAAMBONG: I see. On the second paragraph, did I hear the Gentleman correctly when he said that the President's executive order which may be promulgated under the second paragraph will not preclude the enactment of a law by Congress which will put the charter for Metro Manila on a more permanent or enduring basis?

MR. OPLE: Yes. Nothing here will preclude Congress from enacting a law.

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

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: May the Honorable Ople answer just one or two questions on the first paragraph?

MR. OPLE: Very gladly, Mr. Presiding Officer.

MR. DE CASTRO: I understand that as of today there are no more city and municipal councils in the metropolitan area because of the structure made for the Metro Manila Commission. Is that correct?

MR. OPLE: Yes, there are no existing city and municipal councils.

MR. DE CASTRO: So that if we will now allow city or municipal councils to be included in the election, we will definitely destroy the structure of the Metro Manila Commission type of government.

MR. OPLE: Yes, that would be the consequence, Mr. Presiding Officer, to the extent that the Metropolitan Manila Commission does not allow municipal and city councils. However, in Section 9 of the Article on Local Governments that we have already approved, we provided for the revival of the city and municipal councils.

MR. DE CASTRO: Yes, but this will automatically dissolve the Metro Manila Commission?

MR. OPLE: Yes. In effect, the Metro Manila Commission is dismantled upon the adoption of this Constitution, without prejudice to the President's promulgating an executive order that will activate or put into effect the Metropolitan Authority created already in Section 9 of the Article on Local Governments.

MR. DE CASTRO: Thank you.

MR. REGALADO: Mr. Presiding Officer.

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

MR. REGALADO: Will Commissioner Ople agree to some minor amendments?

MR. OPLE: I would like to listen respectfully.

MR. REGALADO: To subserve the transitory purpose of this provision and also to simplify the phraseology, with respect to the second paragraph I propose that we start the second paragraph with a qualification to read: "UNTIL OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY IN THE EXERCISE OF THE POWERS PROVIDED UNDER SECTION 2 OF THIS ARTICLE . . ." Eliminate "by executive order" because the President may resort to other vehicles of proclamation.

MR. OPLE: Yes.

MR. REGALADO: Instead of "the," "the Metropolitan Council," change it to article "A," because this is something new. It may be called "Metropolitan Council," it may be called by some other name, as long as it is a metropolitan council. So that that second paragraph, if Commissioner Ople is willing to accept it and the committee is also willing, will read: "UNTIL OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY, IN THE EXERCISE OF THE POWERS PROVIDED UNDER SECTION 2 OF THIS ARTICLE, CONSTITUTE A METROPOLITAN COUNCIL TO BE COMPOSED . . ."

MR. OPLE: I accept the amendment with appreciation, Mr. Presiding Officer. It does improve the language of the paragraph and make it more precise. However, may I inform Commissioner Regalado that in the latest version "Metropolitan Council" reads "Metropolitan Authority."

So, will he consider rephrasing his amendment?

MR. REGALADO: If it is a specific terminology, then instead of the article "A," we will put "THE" and specify "Metropolitan Council."

MR. OPLE: Thank you.

MR. MAAMBONG: Could we have the accepted amendment of Commissioner Regalado? We did not get it very well. Will Commissioner Regalado please read the second paragraph again.

MR. REGALADO: "UNTIL OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY, IN THE EXERCISE OF THE POWERS PROVIDED UNDER SECTION 2 OF THIS ARTICLE, CONSTITUTE A METROPOLITAN COUNCIL TO BE COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS COMPRISING THE NATIONAL CAPITAL REGION."

Commissioner Nollado informs me that in the Article on Local Governments, they used the phrase "Metropolitan Authority." So I will leave it to Commissioner Ople and the committee whether for purposes of alignment we will call it "Metropolitan Council" or "Metropolitan Authority."

MR. OPLE: Yes, to align with Section 9 of the Article on Local Governments, may I recommend "Authority."

MR. JAMIR: Mr. Presiding Officer, just a matter of clarification.

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

MR. JAMIR: The second paragraph includes this statement "UNDER SECTION 2 OF THIS ARTICLE." However, Section 2 of the Article on Transitory Provisions thus far approved states:

The incumbent President shall continue to exercise legislative power until the first Congress is convened.

I do not think the reference is correct.

MR. OPLE: Yes, upon the adoption of this Constitution, there is still no legislature and, therefore, the legislative power will be exercised by the President in accordance with Section 2 of the Article on Transitory Provisions. So,

that will be the source of her authority for constituting the Metropolitan Authority, until Congress decides otherwise.

THE PRESIDING OFFICER (Mr. Rodrigo): Does the committee accept the proposal as amended?

MR. SUAREZ: May we suggest a few amendments, Mr. Presiding Officer? Let us take the first paragraph. May we say now: "THE FIRST ELECTION SHALL INCLUDE THE ELECTION OF MEMBERS OF THE CITY OR MUNICIPAL COUNCILS IN THE NATIONAL CAPITAL REGION."

MR. OPLE: Accepted, Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: May I also have one suggestion by way of an amendment. Instead of "National Capital Region," change this to "METROPOLITAN MANILA AREA" to coincide with the Article on Local Governments and also the Article on the Legislative.

MR. OPLE: The amendment is accepted, Mr. Presiding Officer.

MR. SUAREZ: Let me reformulate the first sentence. It should read: "THE FIRST LOCAL ELECTION SHALL INCLUDE THE ELECTION OF MEMBERS OF THE CITY OR MUNICIPAL COUNCILS IN THE METROPOLITAN MANILA AREA."

MR. OPLE: Yes.

MR. SUAREZ: Now, in connection with the second, by virtue of the inquiries of the Honorable Jamir, would it be in order to just say "UNLESS OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY CONSTITUTE THE METROPOLITAN AUTHORITY TO BE COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS . . ."

MR. OPLE: Accepted, Mr. Presiding Officer, provided that the National Capital Region will now read: "METROPOLITAN MANILA AREA."

MR. SUAREZ: Thank you.

MR. DE LOS REYES: One clarificatory question.

MR. SUAREZ: Yes. After the clarificatory question of Commissioner de los Reyes, the committee will be ready to accept the proposed amendment.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Mr. Presiding Officer, what will be the composition of the city council and the municipal council within this Metropolitan Manila Area? Will it be as provided in the existing Local Government Code or the composition before the creation of the Metropolitan Manila Commission?

MR. OPLE: The Local Government Code should apply with respect to the city and municipal councils, Mr. Presiding Officer.

MR. DE LOS REYES: Thank you.

MR. SUAREZ: So, may we read the second paragraph as reformulated: "UNTIL OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY CONSTITUTE THE METROPOLITAN AUTHORITY TO BE

COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS COMPRISED BY THE METROPOLITAN MANILA AREA."

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

THE PRESIDING OFFICER (Mr. Rodrigo): Will the committee please read the whole section now, the first and second paragraphs, so we can vote.

MR. SUAREZ: "THE FIRST LOCAL ELECTIONS SHALL INCLUDE THE ELECTION OF MEMBERS OF THE CITY OR MUNICIPAL COUNCILS IN THE METROPOLITAN MANILA AREA.

"UNTIL OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY CONSTITUTE THE METROPOLITAN AUTHORITY TO BE COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS COMPRISED BY THE METROPOLITAN MANILA AREA."

Thank you.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor, 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 35 votes in favor and none against; the proposed amendment, as amended, is approved.

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: In the meantime, we will designate that approved section as Section 15 so that our recording secretary will not have a hard time in indicating it.

THE PRESIDING OFFICER (Mr. Rodrigo): We have that noted.

MR. COLAYCO: Mr. Presiding Officer.

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

MR. COLAYCO: I would like to ask the committee a question. Is the term "Metropolitan Manila Area" defined in law or elsewhere in our Constitution? I think we better clarify this point.

MR. SUAREZ: May we hear from the chairman of the Committee on Local Governments? Let us clear this up.

THE PRESIDING OFFICER (Mr. Rodrigo): Will the Gentleman please repeat the question.

MR. SUAREZ: May we get the necessary explanation from the chairman of the Committee on Local Governments.

MR. NOLLEDO: Is the Commissioner asking me, Mr. Presiding Officer?

MR. SUAREZ: Yes.

MR. NOLLEDO: I think the question should be directed to Commissioner Davide. As far as the Article on Local Governments is concerned, there is no definition, but during the deliberations of the Ople proposal, we defined the composition of the Metropolitan Manila Area as found in P.D. No. 854.

MR. COLAYCO: All I wanted to know is whether there is such a definition.

MR. OPLE: Mr. Presiding Officer.

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

MR. OPLE: Thank you.

In reply to Commissioner Colayco's concern on whether there is a definition of "Metropolitan Manila Area," may I point out that the chairman of the Committee on Local Governments said that in the deliberations; it was abundantly made clear that the existing boundaries are the boundaries also contemplated in this provision. I think the Gentleman will recall that in those deliberations the inclusion of the 10 towns of Rizal-origin and one town of Bulacan-origin was confirmed as belonging now permanently and irrevocably until a future law decides otherwise to the Metropolitan Manila Area. The territorial boundaries were set forth in P.D. No. 854 in 1975. Just for the record, during the deliberations, the Committee on the Legislative started redistricting with the presupposition that the question of the boundaries of Metro Manila was still open. In the course of the deliberations, it became clear that in the contemplation of the Committee on Local Governments the inclusion of Valenzuela, Bulacan and 10 towns in Rizal had become a matter of historical fact, well-established historical fact, and, therefore, should no longer be disturbed.

MR. COLAYCO: Thank you for the information.

MR. RAMA: Mr. Presiding Officer, may I ask that Commissioner Foz be recognized for another amendment.

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

MR. FOZ: Thank you, Mr. Presiding Officer. This is a proposed amendment submitted by the Committee on Constitutional Commissions and Agencies. I would like to read the proposed provision: "SECTION ____ . THE INCUMBENT MEMBERS OF THE CIVIL SERVICE COMMISSION, THE COMMISSION ON ELECTIONS AND THE COMMISSION ON AUDIT SHALL CONTINUE IN OFFICE FOR ONE YEAR AFTER THE RATIFICATION OF THIS CONSTITUTION UNLESS SOONER REMOVED OR APPOINTED THEREUNDER IN ACCORDANCE WITH ITS LIMITATIONS." That is the proposed amendment and I would like to explain, Mr. Presiding Officer.

In the appointments extended by the President to the incumbent chairmen and commissioners of the three constitutional commissions, there is no fixed term for them to serve. This indicates the temporary nature of the appointments. It could not have been the intention for them to serve indefinitely for that would be in violation of the Freedom Constitution and the draft Constitution, both of which mandate fixed terms. It is believed that their terms were not fixed precisely to await the drafting of the new Constitution and its ratification. The proposed amendment seeks to remedy the existing situation by setting a one-year period from the ratification of this new Constitution in which the officials concerned shall continue in office. The President is given the discretion to replace them within the same period or make appointments in accordance with the new Constitution which mandates staggered terms of office for the first set of appointees. This will insure that the system of staggered terms will come into play as expressly intended by the new Constitution.

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

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Will Commissioner Foz please clarify something?

MR. FOZ: Yes, Mr. Presiding Officer.

MR. DE LOS REYES: How about these constitutional officers who served, for example, in the past regime for four years, five years? Will these services be counted in determining the staggered years of service of seven years, four years and three years? Or will all these be disregarded and we will start from square one after one year?

MR. FOZ: This body can adopt either of the two arrangements or considerations. But let me just point out that during our discussions on the floor regarding the terms of the members of the three constitutional commissions, we made it clear that our intention is that no member shall serve an aggregate term of more than seven years because that is the maximum period during which a member can be allowed to serve, according to this provision:

The Chairman and the Commissioners shall be appointed by the President . . . for a term of seven years without reappointment.

In other words, that is the longest period of time that any member can serve in any one of the commissions concerned. As a matter of fact, we have stated in the approved provisions that there shall be a system of staggered terms, so that of those first appointed, some will serve seven years, another set of them will serve only for five years and, finally, the last members will serve only for three years.

MR. DE LOS REYES: Yes. Let us take, for example, the case of Commissioner Felipe of the COMELEC. He was appointed by the deposed President Marcos and he has served for about two years, I think. Now, after the ratification of the Constitution, he will have one more year. That is the proposal of the Commissioner.

MR. FOZ: In the particular case of Chairman Felipe of the COMELEC, I was given to understand that he has served something like four years.

MR. DE LOS REYES: All right, four years. So, he will have another one-year extension based on the Commissioner's proposal.

MR. FOZ: No. If he has served for four years, then perhaps if we adopt our intention as we have discussed on the floor, then he can serve for only three more years.

MR. DE LOS REYES: The Commissioner means that after one year, he cannot be reappointed by President Aquino to serve for seven years because he had already served for four years?

MR. FOZ: If we consider his past tenure, Mr. Presiding Officer.

MR. DE LOS REYES: Precisely, based on the Gentleman's concept of this proposal, will all the years served by Commissioner Felipe be considered in counting the aggregate years of service?

MR. FOZ: I think the reasonable stand to take is to consider all the past tenures to make sure that no member of the commissions will unduly prolong his tenure or be allowed to prolong his tenure.

MR. DE LOS REYES: So, we will just leave that to the sound discretion of the appointing power?

MR. FOZ: No, Mr. Presiding Officer. I think that is something that we should provide and make clear in our deliberations now, so that no one is allowed to serve beyond seven years.

MR. DE LOS REYES: Beyond seven years, thank you.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: May I ask a question or two of Commissioner Foz?

Will this proposal of the Commissioner correct the possibility that no member of the Civil Service Commission, the Commission on Elections or the Commission on Audit shall serve for not more than seven years?

MR. FOZ: May I have the question again?

MR. DE CASTRO: Will this proposal of the Gentleman attain the provision in our Article on the Constitutional Commissions that no member thereof shall in no case serve for more than seven years?

MR. FOZ: It is implicit in this provision that such shall be the case — that no one member shall serve beyond seven years.

MR. DE CASTRO: How can this proposal attain the staggered term of office of the members of the Civil Service Commission, the Commission on Audit and the Commission on Elections?

MR. FOZ: On the basis of this provision, I will not say compel, but we bring about the enforcement or the implementation of the system of staggered terms which is expressly provided in the main provisions on the term of office of the members of the constitutional commissions.

MR. DE CASTRO: Does the Gentleman not think that his proposal will need a reformulation, so that the matters which we are discussing now — such as the provision that the chairman and members of the constitutional commission shall in no case serve for more than seven years, or that there should be a staggering of their respective offices — can be had? Does not the Gentleman think that this will need a reformulation?

MR. FOZ: I agree that perhaps our intention that no member shall serve beyond seven years or an aggregate tenure of more than seven years may have to be made more explicit in this provision. But I maintain that with regard to the system of staggered terms, that is quite clear in this provision because all appointments to be made by the President under the new Constitution will have to follow the staggered term system. Our provision regarding the terms of office of the members of the constitutional commissions expressly provides that of those first appointed, the first batch shall serve for a term of seven years, the second batch for five years, and the last batch for three years

MR. DE CASTRO: Will the Gentleman agree to a reformulation of these proposals so as to attain the concept which we are discussing today?

MR. FOZ: We are willing to consider.

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

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

MR. MONSOD: Mr. Presiding Officer, I was just going to ask the proponent if he will accept an amendment to his formulation by the addition of a sentence. Put a period (.) after "THEREUNDER" and then add the sentence: "IN NO CASE WILL ANY COMMISSIONER SERVE A TERM LONGER THAN SEVEN YEARS, INCLUDING SERVICE BEFORE THE RATIFICATION OF THIS CONSTITUTION."

THE PRESIDING OFFICER (Mr. Rodrigo): What does Commissioner Foz say?

MR. FOZ: I would be amenable to that amendment to my proposal.

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say? Commissioner Suarez is recognized.

MR. SUAREZ: Will the Commissioner write the last sentence that is being proposed as amendment?

MR. DE CASTRO: I propose a certain amendment on the first sentence which will read like this: "THE

INCUMBENT MEMBERS OF THE CIVIL SERVICE COMMISSION, THE COMMISSION ON ELECTIONS AND THE COMMISSION ON AUDIT SHALL CONTINUE IN OFFICE UNLESS SOONER REMOVED OR REAPPOINTED THEREUNDER." Then the second sentence of Commissioner Monsod shall follow.

THE PRESIDING OFFICER (Mr. Rodrigo): Shall we take the amendments one by one? Let us first wait until they are reformulated.

MR. SUAREZ: Let us wait for the Monsod amendment.

SUSPENSION OF SESSION

MR. MONSOD: May we request a suspension of the session, Mr. Presiding Officer?

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

It was 4:56 p.m.

RESUMPTION OF SESSION

At 5:21 p.m., the session was resumed.

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

MR. PADILLA: Mr. Presiding Officer.

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

MR. PADILLA: I am a member of the Committee on Transitory Provisions and I, like the others in the Assembly, have been receiving many proposed sections, additional sections, to the committee report. Some were reasons for the proposal, the others were written only on very small pieces of paper liable to be blown by the wind. It is good that we do not have blowing wind in this session hall for it is air-conditioned.

So many sections have been considered as additional items to the committee report. The Floor Leader calls on individual members and they naturally submit their respective proposed section. Frankly, Mr. Presiding Officer, I find it difficult to follow, and I can hardly find the text that has been circulated one or two days before. So, there does not seem to be a regular order of procedure. I suggest, Mr. Presiding Officer, that all these different proposals on additional sections be submitted to the committee, and for the committee to recommend inclusion in an additional agenda in successive order so that we will know which section as additional resolution will be taken up and then the next. But as it is now, there is one section now, and then another section, and I find it very difficult to predict what section will be next considered. Moreover, sometimes we take a section like Section 12 and we approve it, but subject to the approval of Section 7, which we have not yet approved. Let us have more order and more regularity. I suggest that all the remaining sections as additional proposals be submitted to the committee, and even to the chairman alone or to Commissioner Maambong, even without the concurrence of the other members of the committee who may not be available.

I do not intend to delay, but to expedite the termination of the consideration of the Article on Transitory Provisions, let us have an additional agenda with the particular sections that are accepted by the committee and recommended for approval by the body, instead of being at the mercy of any Commissioner who has made a proposal to be submitted for immediate consideration. Many of the proposals, Mr. Presiding Officer, are good proposals. I am not saying that they are not worthy of our consideration and approval. But what I am driving at is that we better have an additional agenda approved or recommended by the committee.

THE PRESIDING OFFICER (Mr. Rodrigo): Does the committee want to react to that suggestion?

MR. MAAMBONG: Mr. Presiding Officer.

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

MR. MAAMBONG: The committee actually anticipated the situation mentioned by the honorable Vice-President. As a matter of fact, in the sponsorship speech of the honorable chairman of the committee, he indicated that our working draft, if we can call it that, is the committee report containing 12 sections and an addendum. We tried to religiously follow the committee report consisting of 12 sections and we were about to go into the addendum. But along the way, there were amendments related either to the committee report proper or to the addendum. So we just had to entertain them because they were related. However, the chairman has advised the members of the committee that henceforth, after we are through with the amendment of Commissioner Foz, we will go back to the addendum. After we shall have gone through the addendum, then we will sequence, as indicated by the Vice-President, all the other amendments which have been presented to us.

As a matter of fact, I would like to indicate further that although the committee members are having a hard time looking for these proposed additional provisions, because according to the Vice-President they can very well be blown away by the wind because they are very small, we shall try our best to do that.

Thank you.

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

MR. RAMA: I agree with the Vice-President and I would like to ask the committee to indicate, as far as practicable, what the addenda are and who are making these addenda.

MR. SUAREZ: I thank the Floor Leader for the institution of a more methodical approach to the presentation of amendments. So, in line with the announcement already made by the Honorable Maambong, may we request that he himself be recognized because he is the next in line in the presentation of proposals under the addendum that had already been mentioned. As guideline in the presentation of proposals, may I request the Commissioners to refer to the addendum which I had referred in our sponsorship speech.

MR. MAAMBONG: Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): May the Chair ask what is the status of the Foz amendment?

MR. MAAMBONG: That is precisely the point. I am happy that I am recognized now by the honorable chairman, but there is a pending proposal of Commissioner Foz. I think we have to clear that up before we go to the addendum.

MR. FOZ: Mr. Presiding Officer.

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

MR. FOZ: May we be allowed to continue our presentation? After consultation with other Commissioners and the committee itself, we have come up with an amended proposed amendment which I would like to read: "THE INCUMBENT MEMBERS OF THE CIVIL SERVICE COMMISSION, THE COMMISSION ON ELECTIONS AND THE COMMISSION ON AUDIT SHALL CONTINUE IN OFFICE FOR ONE YEAR AFTER THE RATIFICATION OF THIS CONSTITUTION UNLESS SOONER REMOVED OR APPOINTED TO A NEW TERM THEREUNDER." Then a new sentence: "IN NO CASE SHALL ANY MEMBER SERVE LONGER THAN SEVEN YEARS INCLUDING SERVICE BEFORE THE RATIFICATION OF THIS CONSTITUTION."

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

MR. SUAREZ: The committee accepts the proposal of the Honorable Foz.

MR. FOZ: I would like to inform the body that the intention to submit this amendment was announced as far back as July 16, 1986. In our discussions on the floor, when we were discussing the term of office for the chairman and members of the constitutional commissions, this point was already raised and we made clear the intention that the maximum aggregate tenure of any member of the constitutional commissions is seven years.

THE PRESIDING OFFICER (Mr. Rodrigo): The committee has accepted the amendment unless there is any other amendment.

MS. ROSARIO BRAID: Mr. Presiding Officer.

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

MS. ROSARIO BRAID: May I just ask a clarificatory question. Would the aggregate number of years include years served as a commissioner and not chairman? I am referring to Chairman Gotladera who is just, I think, starting her tenure as chairman but may have served some years as a commissioner.

MR. FOZ: The provision is a general one which does not specify whether the service be that of chairman or mere member so that service before is to be counted or tucked in so that the seven-year aggregate tenure will not be violated.

MS. ROSARIO BRAID: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The body is now ready to vote. Will Commissioner Foz read the entire amendment again which has been accepted by the committee?

MR. FOZ: Yes, Mr. Presiding Officer. The amendment reads: "THE INCUMBENT MEMBERS OF THE CIVIL SERVICE COMMISSION, THE COMMISSION ON ELECTIONS AND THE COMMISSION ON AUDIT SHALL CONTINUE IN OFFICE FOR ONE YEAR AFTER THE RATIFICATION OF THIS CONSTITUTION UNLESS SOONER REMOVED OR APPOINTED TO A NEW TERM THEREUNDER. IN NO CASE SHALL ANY MEMBER SERVE LONGER THAN SEVEN YEARS, INCLUDING SERVICE BEFORE THE RATIFICATION OF THIS CONSTITUTION."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor, 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 30 votes in favor and none against; the proposed amendment is approved.

MR. MAAMBONG: Mr. Presiding Officer, we will assign number 16 to this approved amendment.

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

MR. RAMA: May I ask Commissioner Maambong to be recognized.

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

MR. MAAMBONG: Mr. Presiding Officer, we are now following the contents of the addendum. May I call the attention of the body to page 2 of the addendum. There are three sections there marked as 2.2.a, 2.2.b and 2.2.c.

We will take up the first section 2.2.a and we will assign this as Section 17. I am now speaking not as a member of the committee but as a proponent of this proposed section and I will read it for the record.

MR. RAMA: May I ask if this is not one of those drafts that had been blown by the wind? I will ask Commissioner Padilla whether he has a copy of this.

MR. MAAMBONG: No, Mr. Floor Leader. This was actually distributed by the committee as part of the committee report. If the Gentleman will notice on the first page, it is indicated as: "Addendum to the Committee Report of the Committee on Amendments and Transitory Provisions." May I read it now, Mr. Presiding Officer.

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

MR. MAAMBONG: The provision reads: "EVERY HIGHLY URBANIZED CITY OR COMPONENT CITY HEREAFTER CREATED SHALL HAVE A POPULATION OF NO LESS THAN TWO HUNDRED THOUSAND AND ONE HUNDRED THOUSAND INHABITANTS, RESPECTIVELY." May I just explain this very briefly, Mr. Presiding Officer?

Under the present Local Government Code we have criteria for the creation of urbanized cities and component cities. But during our discussion of the legislative department and also in the discussion of the Article on Local Governments, there were certain apprehensions that since the Local Government Code is a creation of the legislature, the legislature may change the criteria indicated therein, and it would happen again that cities might be created without the minimum requirement.

Under the Local Government Code there are actually three requirements not always followed in the creation of all local government units. But normally, the requirements are population, area and income. What we are placing here is only a requirement on population; we are not going into income. But at least if this is placed in the Constitution, then no future Congress can create cities, component or highly urbanized, just like that. As of now we have component cities which are too small to be considered cities and that is why we would like to correct this defect so that in the future there will be no cities created which are as small as barrios as is happening now.

MR. DAVIDE: Mr. Presiding Officer.

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

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

I would only seek some clarification. Under existing law, is there also a population requirement for the creation of a province?

MR. MAAMBONG: Yes, Mr. Presiding Officer.

MR. DAVIDE: What is the population requirement for a province?

MR. MAAMBONG: The population requirement in the case of a province under Section 197 of the Local Government Code is a population level of no less than 50,000 inhabitants, an area of 3,500 square kilometers, and an annual income of P10 million at least.

MR. DAVIDE: What is the reason for a possible distinction which is implied in the proposal of the Commissioner? Why did he not include province?

MR. MAAMBONG: Now that the Gentleman mentioned it, I think we should also include province if an amendment is presented by the Gentleman.

MR. DAVIDE: Then if there are no other interpellators, I would propose the following amendment: After "every,"

insert the word "PROVINCE" and a comma (,) then after "urbanized city," place a comma (,).

MR. NOLLEDO: Anterior amendment, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Nolleddo is recognized for an anterior amendment.

MR. NOLLEDO: I move for the deletion of this provision. This is not a transitory provision. This should have been presented under the Article on Local Governments, Mr. Presiding Officer.

You will notice that in Section 5 of the Article on Local Governments, we provided that cities that are highly urbanized shall be determined by law; this would indicate that whether a city is urbanized or not should be really determined by law. Besides, we do not determine whether a city is urbanized or not on the basis of the population alone. Congress has all the facilities at its command to fix other factors that may be taken into account in classifying whether a city is highly urbanized or not.

By the very reason of its nature, this is not definitely a transitory provision. It goes against Section 5 of the Article on Local Governments which we have approved; and on the basis of the deliberations with respect to Section 5, with Commissioner Maambong participating, it was very clear that whether or not a city is highly urbanized should be defined by law.

MR. MAAMBONG: Mr. Presiding Officer, may I reply to that.

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

MR. MAAMBONG: Commissioner Nolleddo is not objecting to the provision because it lacks the proper substance.

MR. NOLLEDO: If it really lacks the proper substance. (Laughter)

MR. MAAMBONG: I think he is objecting to it because he said that this should not belong to the Transitory Provisions. I would like to explain.

In my letter to the Honorable Jose Suarez, chairman of the Committee on Amendments, I said that:

... the attached copy in the form of a proposed resolution could not be filed in time because of time limits. The delay in filing, however, is due to the fact that I had to await the approval of the Articles on Local Governments and on the Legislative Department before I could formulate the provisions.

I just want to find out from Commissioner Nolleddo if he is against the substance of this proposed provision because if we have to go by that theory, I would like to recall that yesterday we spent five hours deliberating on the section on paramilitary forces, CHDF, private armies and that is not — definitely not — a transitory provision by any standard that we can use.

So, Commissioner Nolleddo is objecting to this on procedural grounds, I would like to ask him, considering that he is the chairman of the Committee on Local Governments, to please consider the substance of this. The purpose, from my standpoint at least, is very laudable. We do not want cities, provinces or component cities, for that matter, to be created just like that. That is why we are trying to set a minimum requirement so that we will not see the day when there will be sprouting all over the Philippines cities which are just like barrios, and there are so many of them all over the Philippines.

MR. NOLLEDO: Mr. Presiding Officer, I am objecting on procedural and substantial grounds, with due respect to Commissioner Maambong, because we are tying the hands of Congress in determining what is a highly urbanized city. Perhaps now, I cannot foresee what other factors should be considered in determining whether a city is highly urbanized or not. I do not believe that population alone shall be the sole consideration in determining whether a city is highly urbanized or not, as indicated in the proposed provision of Commissioner Maambong.

MR. MAAMBONG: Precisely, Mr. Presiding Officer, we only indicated a minimum requirement just to prevent the creation of cities which do not comply with this requirement. I do not want to delay the proceedings because I am a member of the committee myself and I am very tired, so why do we not just put the motion to delete on the floor?

MR. NOLLEDO: But before this motion is put to the floor, Mr. Presiding Officer, I just want to cite a specific example. It may turn out that a city has only 100,000 people but the city earns a big income because the people there are very progressive and so the income is also considered. For example, the roads are feeder roads and the appearance of the city alone perhaps would be much better than the City of Manila.

So I do not believe that population should be the sole basis in determining whether a city is highly urbanized or not.

MR. MAAMBONG: If that is the reasoning of the Commissioner, why does he not propose an amendment and put in minimum requirements for income also?

MR. NOLLEDO: I do not believe that it is proper for me to suggest an amendment because I firmly believe — with kindest respect to the Gentleman — that this should be a matter of legislation, because we cannot foresee many factors in the future that may be taken into account in classifying a city as highly urbanized or not.

MR. MAAMBONG: May I ask for a vote on the motion to delete, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): I think the motion to delete has been sufficiently discussed.

As many as are in favor of the motion to delete, 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 17 votes in favor and 11 against; the motion to delete is approved.

The Floor Leader is recognized.

MR. RAMA: I think there is a second section related to this.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: I had a pending amendment.

THE PRESIDING OFFICER (Mr. Rodrigo): Yes, that was an anterior amendment, but it was deleted and so the Commissioner cannot amend this anymore.

MR. DAVIDE: I am confused with the results. I thought the deletion was defeated.

THE PRESIDING OFFICER (Mr. Rodrigo): No.

MR. DAVIDE: I am sorry.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader may continue.

MR. RAMA: If Commissioner Maambong would insist on his second section which is related to the section that was not deleted, then I will call on Commissioner Maambong.

MR. MAAMBONG: Yes, Mr. Presiding Officer, we will go to the next section which we will designate as Section 18.

THE PRESIDING OFFICER (Mr. Rodrigo): This is 2.2.b.

MR. MAAMBONG: Yes, it reads:

Depressed and financially distressed municipalities adjacent to highly urbanized or component cities shall form part of the latter.

I will just explain this briefly, Mr. Presiding Officer.

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

MR. MAAMBONG: I recall Commissioner Ople once said that there are certain municipalities which cannot support themselves and because of that, they become a burden to the national government. If we will have this policy to include these depressed and financially distressed municipalities with highly urbanized component cities, what will happen is that it will relieve the national government of the heavy burden of subsidizing the local government units that cannot even sustain themselves or manage to survive on their own.

Secondly, the anomalous existence of marginal municipalities draws a sharp contrast between the situation obtaining in two entities where one wallows in poverty and the neighboring unit basks in affluence being a city. Thirdly, it will encourage such municipality to strive harder through proper management of its financial affairs in order to avoid crossing the danger line of bankruptcy as many of them continually are, if only to escape the absorption by a neighboring city.

That is our proposed formulation, Mr. Presiding Officer.

REV. RIGOS: Mr. Presiding Officer.

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

REV. RIGOS: May I just ask the committee whether there is a case where a depressed and a financially distressed municipality is not adjacent to any city?

MR. MAAMBONG: There are several.

REV. RIGOS: And they are not covered by this provision.

MR. MAAMBONG: They will not be covered by this.

REV. RIGOS: So they remain depressed and financially distressed?

MR. MAAMBONG: They will remain that way because they cannot be attached to the urbanized city to which they are not adjacent.

REV. RIGOS: Thank you, Mr. Presiding Officer.

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

MR. NOLLEDO: Mr. Presiding Officer, I deeply regret. I hope Commissioner Maambong will pardon me if I again move to delete this provision on the ground that this is a companion provision of what we have just deleted.

MR. MAAMBONG: It is not, Mr. Presiding Officer.

MR. NOLLEDO: It seems to me that this provision goes against Section 4 of the Article on Local Governments

which reads:

No province, city, municipality or barangay may be created, divided, merged, abolished or its boundaries substantially altered, except in accordance with the criteria established in the Local Government Code and subject to the approval by majority of the votes cast in a plebiscite in the political units directly affected.

Besides, with due respect to Commissioner Maambong, I hope he will not count it against me, I believe that this provision is not transitory in nature on substantial and procedural grounds. I regret that I have to file this motion to delete, Mr. Presiding Officer.

MR. MAAMBONG: How will the Gentleman solve this nagging problem in the Philippines today? He is with local government; he should be able to find a solution to this problem. I am trying to help his Committee on Local Governments in trying to put in a provision to help this depressed and financially distressed municipality.

Could the Gentleman perhaps offer a solution, instead of just proposing a motion to delete?

MR. NOLLEDO: I would suggest very strongly that our Congress adopt this provision. I think it is a matter of legislation. I fully agree with the wisdom behind this provision but I think it is really a question of legislation. I do not go against that wisdom.

I would like to raise a point of order. We are considering here the Transitory Provisions. It seems to me that we are going against the Rules by considering substantial provisions. I really deeply regret to say this, if we have to have, in the words of Commissioner Maambong, "sanity to the proceedings of this Commission." (Laughter)

MR. MAAMBONG: I will not argue with the Gentleman on that again to save time but I already indicated that yesterday we approved a provision which is not transitory. I would rather thank the Gentleman for believing in the substance of this provision which is already on record and I want to put this to a vote.

VOTING

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

As many as are in favor of the motion to delete, 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 17 votes in favor and 11 against; the motion to delete is approved.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: There is a third section related to the past two sections. If Commissioner Maambong will valiantly insist on presenting this section despite the vehement or belligerent opposition of Commissioner Nolleto, then I ask that this section be taken up.

MR. MAAMBONG: Mr. Presiding Officer, I am sure that this proposed Section 19 will have the 100 percent support of Commissioner Nolleto because during my interpellation in the deliberations of the Committee on Local Governments, I asked him about this and he was the one who suggested that I should make mention of this in the Transitory Provisions. I will now read it, Mr. Presiding Officer.

MR. SUAREZ: As Section 17.

MR. MAAMBONG: As Section 17, yes, because the first two sections were not approved. "SUBPROVINCES

SHALL CONTINUE TO EXIST AND OPERATE IN A TRANSITORY MANNER UNDER PRESENT LAWS. THE CONVERSION OF A SUBPROVINCE INTO A REGULAR PROVINCE OR THE REVERSION OF ITS COMPONENT MUNICIPALITIES TO THE MOTHER PROVINCE SHALL BE GOVERNED BY LAW."

MR. NOLLEDO: I am not going to file a motion to delete this provision.

Thank you, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer, I only made mention of this provision because in my interpellation of Commissioner Nollado in the Committee on Local Governments, no mention at all has been made of subprovinces and we do have subprovinces in this country. We have Biliran in Leyte, another one which is in Aurora, and we have the Guimaras. They have their own set of officers; they are treated as subprovinces but under the Local Government Code they are given 10 years within which to decide whether they will become provinces or they will revert back to the mother province. In a way this Section 19 is only an acceptance that these political units or local government units do exist.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: Just a few clarificatory questions. The first is, would an approval of this section vest upon the subprovince separate representation to the Lower House of Congress?

MR. MAAMBONG: No, Mr. Presiding Officer.

MR. DAVIDE: On the matter of reversion of its component municipalities, what is referred to as mother province?

MR. MAAMBONG: Before these subprovinces were created, they were actually municipalities of presently existing provinces and they were separated a long time ago by virtue of the provisions of the Revised Administrative Code which has been amended several times. But when the Local Government Code was passed, it appears that the subprovinces that were already created under the law did not possess the necessary qualifications as a province but they remain as such because they were created by law.

MR. DAVIDE: When the Gentleman says "present laws" referring more particularly to the existence and operation of subprovinces, does he refer to the Local Government Code?

MR. MAAMBONG: Yes, Mr. Presiding Officer.

MR. DAVIDE: Under which subprovinces are given a period of 10 years?

MR. MAAMBONG: Yes, Mr. Presiding Officer, under Section 198 of the Local Government Code.

MR. DAVIDE: Second, insofar as reversion is concerned, is this also governed by the Local Government Code?

MR. MAAMBONG: Yes, Mr. Presiding Officer.

MR. DAVIDE: So, by this provision, will we no longer allow a repeal or a modification of the provision of the Local Government Code relating to the existence and operation and the reversion of subprovinces?

MR. MAAMBONG: Not necessarily, because our provision says "shall be governed by law." If I recall, in our discussion on the Article on Local Governments, we said in one of the sections that there will be a passage of the Local Government Code, and the Local Government Code which may be passed may have inconsistent provisions in some way to the present Local Government Code, which is B.P. Blg. 337.

MR. DAVIDE: In other words, the Gentleman will not allow a new Local Government Code to repeal or modify that portion of the existing Local Government Code regarding the existence and operation of subprovinces or the conversion of its component units to the mother province?

MR. MAAMBONG: No, that is not the intention.

MR. DAVIDE: If that is not the intention, there seems to be no need for these because both existence and operation and reversion are governed by existing law.

MR. MAAMBONG: Yes, Mr. Presiding Officer, but in our interpellation of Commissioner Nollado, he admitted that in the present set-up of our political subdivisions, we have not made any mention of a subprovince. And what I was trying to impart is that we have to have in this Constitution a mention of subprovinces as to their existence, even though in a transitory manner. That is why we said: "SUBPROVINCES SHALL CONTINUE TO EXIST AND OPERATE IN A TRANSITORY MANNER UNDER PRESENT LAWS."

MR. DAVIDE: The Gentleman mentioned Aurora as one of the subprovinces; there are actually two subprovinces now: Guimaras and Biliran. Is Aurora already a province?

MR. MAAMBONG: Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any other comment? Will the Gentleman please read the proposed section again.

MR. RAMA: Commissioner Azcuna would like to make a comment.

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

MR. AZCUNA: Thank you.

Mr. Presiding Officer can we not transfer under the present laws to something like this: "SUBPROVINCES EXISTING UNDER PRESENT LAWS SHALL CONTINUE. THE CONVERSION OF A SUBPROVINCE INTO A REGULAR PROVINCE . . . SHALL BE GOVERNED BY LAW."

MR. MAAMBONG: How would it read, Mr. Presiding Officer?

MR. AZCUNA: "SUBPROVINCES EXISTING UNDER PRESENT LAWS SHALL CONTINUE. THE CONVERSION OF A SUBPROVINCE INTO A REGULAR PROVINCE OR THE REVERSION OF ITS COMPONENT MUNICIPALITIES TO THE MOTHER PROVINCE SHALL BE GOVERNED BY LAW."

MR. MAAMBONG: I accept that, Mr. Presiding Officer.

MR. AZCUNA: Thank you.

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

MR. GUINGONA: Mr. Presiding Officer, as manifested by the honorable Commissioner Maambong, the main purpose for the inclusion of this particular section is to be able to include in the Constitution a specific mention of subprovince. And in the interpellation made by Commissioner Davide, it appears that there is a provision regarding conversion and reversion as provided in existing laws. So, I would propose that the second sentence be deleted, and just keep the first sentence. That way we will be able to attain the objective or the purpose mentioned by the honorable Commissioner Maambong, without having to repeat or be superfluous.

MR. MAAMBONG: If we delete the second sentence, then we cannot convert the subprovinces anymore, and they will remain as subprovinces. Whereas, in the provisions of existing laws, they have 10 years within which they can convert themselves by having their own population level and income upgraded, if not, they will revert

back to the mother provinces. So, I cannot accept the amendment, Mr. Presiding Officer; otherwise, the subprovinces will continue as such. And that is not the intention of the Committee on Local Governments.

MR. GUINGONA: My understanding of the expression "continue in existence as provided by law" is that the continuation of the existence of the subprovince would be dependent on the provision of the law, so that if the law provides for conversion or reversion, the anterior law will be ineffective.

MR. MAAMBONG: Yes, Mr. Presiding Officer, but if the first sentence indicates that the existence of subprovinces shall continue, without any further provision in the second sentence, it would mean exactly that — that they will continue forever — and we cannot convert them.

MR. GUINGONA: In view of that manifestation, I will not insist.

MR. NOLLEDO: Mr. Presiding Officer.

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

MR. NOLLEDO: May I present a reasonable amendment?

Will the Commissioner be agreeable if this provision should read: "SUBPROVINCES SHALL CONTINUE TO EXIST AND OPERATE UNTIL CONVERTED INTO A REGULAR PROVINCE OR REVERTED TO THE MOTHER PROVINCE AS PROVIDED BY LAW"?

MR. MAAMBONG: I accept, Mr. Presiding Officer.

MR. NOLLEDO: Thank you.

MR. SARMIENTO: Mr. Presiding Officer.

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

MR. SARMIENTO: I do not confirm the statement of Commissioner Davide that Aurora is no longer a subprovince but already a province. I have been to that place about 12 times. Five years ago, that subprovince was converted into a province. So we now have only two subprovinces — Guimaras and Biliran Island.

Can we possibly amend this section so that we will state these two subprovinces. After all, we have only two subprovinces existing. So that the provision shall read: "THE SUBPROVINCES OF GUIMARAS AND BILIRAN SHALL CONTINUE TO EXIST . . .

Will that be acceptable, Mr. Presiding Officer.

MR. MAAMBONG: I do not think we have to, because, for all we know we might leave out a subprovince which we are not aware of and I am afraid of that.

MR. SARMIENTO: Thank you.

MR. DAVIDE: Mr. Presiding Officer.

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

MR. DAVIDE: May I just propose an amendment to the Nolleddo amendment because it appears that insofar as the version is concerned, it is the subprovince that is reverted to the mother province. It should be the component municipalities thereof.

MR. MAAMBONG: May we hear the amendment.

MR. DAVIDE: "ITS COMPONENT MUNICIPALITIES REVERTED TO THE MOTHER PROVINCE."

THE PRESIDING OFFICER (Mr. Rodrigo): What does Commissioner Nollado say to the amendment?

MR. NOLLEDO: I have no objection, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer, may we have the formulation of Commissioner Davide now, since it is accepted by Commissioner Nollado, so that we can present that to the committee.

MR. DAVIDE: May we have the wording of Commissioner Nollado's proposal?

MR. DE LOS REYES: It reads: "SUBPROVINCES SHALL CONTINUE TO EXIST AND OPERATE UNTIL CONVERTED INTO A REGULAR PROVINCE OR ITS COMPONENT MUNICIPALITIES REVERTED TO THE MOTHER PROVINCE AS PROVIDED BY LAW."

MR. AZCUNA: Mr. Presiding Officer, just one final question.

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

MR. AZCUNA: Would this mean that in case of a reversion there would be no need for a plebiscite?

MR. MAAMBONG: Under the present provisions of the Local Government Code, there is no need of a plebiscite.

MR. AZCUNA: But under our local autonomy we mentioned that there is no need for a plebiscite as far as subprovinces are concerned.

MR. MAAMBONG: There is no need. In the Local Government Code, there is no provision to that effect.

THE PRESIDING OFFICER (Mr. Rodrigo): Are we ready to vote?

Will the Gentleman please read the proposed section, as amended?

MR. DE LOS REYES: "SUBPROVINCES SHALL CONTINUE TO EXIST AND OPERATE UNTIL CONVERTED INTO A REGULAR PROVINCE OR ITS COMPONENT MUNICIPALITIES REVERTED TO THE MOTHER PROVINCE AS PROVIDED BY LAW."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor, 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 31 votes in favor and none against; the proposed provision is approved.

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

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

MR. MONSOD: Mr. Presiding Officer, I just want to propose a provision regarding the divestment of advertising entities. We have made a provision that it should be at least 70 percent Filipino, and my proposal is as follows: "ADVERTISING ENTITIES AFFECTED BY SECTION ____ ARTICLE ____ OF THIS CONSTITUTION SHALL BE GIVEN FIVE YEARS FROM RATIFICATION TO COMPLY ON A GRADUATED BASIS WITH A MINIMUM FILIPINO OWNERSHIP REQUIREMENT THEREIN.

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

MR. SUAREZ: Mr. Presiding Officer.

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

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

There is still a paragraph 3 to the addendum that we prepared and in accordance with the arrangement agreed upon, I think we should first consider this matter. We collated all of those loose proposals that may be blown away by the wind and we will submit them all tomorrow morning for consideration by the body. So may we suggest to the Honorable Monsod that he should submit a copy to the committee so that we can include that in the consolidation for tomorrow's consideration.

MR. MONSOD: I submit, Mr. Presiding Officer.

MR. SUAREZ: Thank you.

So may we suggest to the Floor Leader that we go back to the addendum and finish it.

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

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

MR. MAAMBONG: I am not the proponent of this precise paragraph.

MR. SUAREZ: I think the Honorable Regalado has made an express reservation regarding this matter and it concerns the possible reversion of those lands which may have been exploited or explored in excess of the constitutional requirements. I wonder if the Honorable Regalado is here.

THE PRESIDING OFFICER (Mr. Rodrigo): What is the pleasure of Commissioner Romulo?

MR. ROMULO: Mr. Presiding Officer, Commissioner Regalado asked me if I could inform the Chair and the body to defer that because he has a bar review class.

MR. SUAREZ: So may we echo that sentiment and defer it for tomorrow morning.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection to deferring the consideration of this proposed section? (Silence) The Chair hears none; the motion is approved.

MR. MAAMBONG: Just one suggestion to any of the proponents of this concept. It appears that there is no formulation of a provision. It only says that a transitory provision should be made that will allow the State to institute reversion proceedings with respect to the excess area pending the application of the agrarian reform program in the areas concerned, but there is no formulation of any provision at all. So if there is anyone here who is also a proponent, please prepare the necessary provision.

ADJOURNMENT OF SESSION

MR. RAMA: Mr. Presiding Officer, I move for adjournment of the session until tomorrow at nine o'clock in the morning.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the session is adjourned until tomorrow at nine o'clock in the morning.

It was 6:08 p.m.

[*] Appeared after the roll call.

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