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Tuesday, June 3, 1986

OPENING OF SESSION

At 3:17 p.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

Everybody will please rise for the Prayer to be led by the Honorable Gregorio J. Tingson.

Everybody rose for the Prayer.

MR. TINGSON: Let us pray.

PRAYER

Our Omnipotent and loving Heavenly Father, we are faced with the awesome task of writing the fundamental law of our country, so destitute, so deprived and so discouraged. We confess that we, who have been mandated to accomplish this work, are so weak and devoid of knowledge and understanding.

Help us, we beseech Thee, to understand the real needs of our people; that perhaps we do not need more material opulence but spiritual fulfillment; more compassion for the weak and the poor among us; and to realize that righteousness exalts the nation but sin is a reproach to any people.

Thank you, dear Lord, for giving us this enviable honor and privilege to be participants, not mere passive spectators in building, through this Constitution, a Philippines honored by man, blessed by God and a great hope for generations to come.

This is our heartfelt praise and petition through the matchless name of Jesus Christ, Our Lord, Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present Monsod Present

Alonto Present * Natividad Present

Aquino Present Nieva Present

Azcuna Present Nollado Present

Bacani Present Ople Present

Bengzon Present Padilla Present

Bennagen Present Muñoz Palma Present

Bernas Present Quesada Present

Rosario Braid Present Rama Present

Brocka Present Regalado Present

Calderon Present Reyes de los Present

Castro de Present Rigos Present

Colayco Present Rodrigo Present

Concepcion Present Romulo Present

Davide Present Rosales Present

Foz Present Sarmiento Present

Garcia Present Suarez Present

Gascon Present Sumulong Present

Guingona Present Tadeo Present

Jamir Present Tan Present

Laurel Present Tingson Present

Lerum Present Treñas Present

Maambong Present Uka Present

Villacorta Present Villegas Present

The President is present.

The roll call shows 44 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of quorum.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like to present a couple of parliamentary inquiries. I notice in the Provisional Rules we have adopted that every session must begin with the National Anthem, followed by a prayer.

The second parliamentary inquiry, Madam President, is: yesterday, we elected the Secretary-General and the Sergeant-at-Arms, but we notice that they did not take their oath of office on the same day. So, may I move for an amendment to the Order of Business that before the referral to committees the two officers of the Commission take their oath of office.

THE PRESIDENT: Thank you.

With respect to the first question regarding the singing of the National Anthem, may we refer to the Minutes of the caucus — whether the amendment presented by the Honorable Tingson also carried the singing of the National Anthem everyday or only during the first session day of the week.

The Minutes of yesterday's caucus are not yet finished, but the Secretariat recalls that the motion of the Honorable Tingson referred only to the Prayer everyday, not to the singing of the National Anthem because the rule, as is, refers to the singing of the National Anthem during the first session day of the week.

With respect to the second question, may we request the Secretary-General and the Sergeant-at-Arms to take their oath of office now.

At this juncture, the Secretary-General and the Sergeant-at-Arms ascended the rostrum and took their oath of office before the President of the Constitutional Commission.

OATH-TAKING OF THE SECRETARY-GENERAL PANUNUMPA SA KATUNGKULAN

Ako, si Flerida Ruth P. Romero ng Maynila, na hinirang sa katungkulan bilang Secretary-General ng 1986 Constitutional Commission ay taimtim na nanunumpa na tutuparin ko nang buong husay at katapatan, sa abot ng aking kakayahan, ang mga tungkulin ng aking kasalukuyang katungkulan at ng mga iba pang pagkaraan nito'y gagampanan ko sa ilalim ng Republika ng Pilipinas; na aking itataguyod at ipagtatanggol ang umiiral na Saligang Batas ng Pilipinas; na tunay na mananalig at tatalima ako rito; na susundin ko ang mga batas, mga kautusang legal, at mga dekreto ng pinaiiral ng mga sadyang itinakdang maykapangyarihan ng Republika ng Pilipinas; at kusa kong babalikatin ang pananagutang ito, nang walang ano mang pasubali o hangaring umiwas.

KASIHAN NAWA AKO NG DIYOS. (Applause)

OATH-TAKING OF THE SERGEANT-AT-ARMS PANUNUMPA SA KATUNGKULAN

Ako, si Roberto M. San Andres ng Quezon City, na hinirang sa katungkulan bilang Sergeant-at-Arms ng 1986 Constitutional Commission ay taimtim na nanunumpa na tutuparin ko nang buong husay at katapatan, sa abot ng aking kakayahan, ang mga tungkulin ng aking kasalukuyang katungkulan at ng mga iba pang pagkaraan nito'y gagampanan ko sa ilalim ng Republika ng Pilipinas; na aking itataguyod at ipagtatanggol ang umiiral na Saligang Batas ng Pilipinas; na tunay na mananalig at tatalima ako rito; na susundin ko ang mga batas, mga kautusang legal, at mga dekreto ng pinaiiral ng mga sadyang itinakdang maykapangyarihan ng Republika ng Pilipinas; at kusa kong babalikatin ang pananagutang ito, nang walang ano mang pasubali o hangaring umiwas.

KASIHAN NAWA AKO NG DIYOS. (Applause)

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

MR. RAMA: I move for the reading and approval of the Journal of yesterday's session.

THE PRESIDENT: Is there any objection?

Mr. Bengzon is recognized.

MR. BENGZON: Madam President, this afternoon we have received this Journal No. 1. May I invite the attention of my colleagues to page 9, the portion with respect to the approval of the Provisional Rules of the Commission, which is Appendix No 1. On page 1, line 6, of the Provisional Rules, there is a conflict between what was approved or provisionally adopted and what has been appended. Under the Rules that has been provisionally

adopted there are supposed to be three Assistant Floor Leaders to be elected. The understanding we had yesterday was that this would be left as it is until after a discussion by the Steering Committee will have been finished.

So, there is either a typographical error or a mistake by the Secretariat in mimeographing Appendix No. 1. I, therefore, would like to raise that point, and I object to the motion to approve the Journal.

THE PRESIDENT: Is it the Chair's understanding

that Mr. Bengzon is presenting a motion to amend the Journal as prepared? We will have the Journal read first after which we can present motions to amend or correct it.

MR. BENGZON: In that case, Madam President, if it is not yet the proper time, I am willing to wait. I am just calling the attention of the Chair to this matter.

THE PRESIDENT: Thank you very much.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, we have already been furnished with copies of the Journal. I move to dispense with the reading of the Journal.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the reading of the Journal is dispensed with.

The Acting Floor Leader is recognized.

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

THE PRESIDENT. We will first take up the point raised by Commissioner Bengzon.

MR. BENGZON: Madam President, I move that we correct page 1 of Appendix No. 1.

MR. DAVIDE: Anterior amendment, Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: The anterior amendments are on pages 3 and 4.

On page 3, line 3, under the headings "The National Anthem" and "Invocation," after the word "purpose," insert a comma (,), the word NAMELY and a colon (:), then the names of the five religious leaders who delivered the invocation.

On page 4, second paragraph, under the heading "Entry of the President," insert between the words "Body" and "gave" AND THE AUDIENCE. On line 1, under the heading "Address of the President," add GRANTED TO after the word "authority"; and on line 2, insert the article THE between the words "and" and "complete."

I move for the approval of the proposed amendments.

THE PRESIDENT: Is there any objection to the amendments proposed by Commissioner Davide?

MR. DE LOS REYES: Madam President, may we request that the lines, as corrected, now be read. We cannot understand all these amendments.

THE PRESIDENT: The Secretary-General will please read the particular lines as amended.

THE SECRETARY-GENERAL: On page 3, the first paragraph reads: "Thereafter, the National Anthem was played, followed by the Invocation led by five religious leaders who were invited for the purpose, NAMELY: REVEREND CIRILO RIGOS, RICARDO CARDINAL VIDAL, BISHOP ADRIEL O. MEIMBAN, BISHOP SOTERO MITRA, AND PROFESSOR ABDUL RAFFIH SAYEDY."

On page 4, under the heading "Entry of the President," the second paragraph should read: "The Body AND THE AUDIENCE gave the President a standing ovation."

Under the heading "Address of the President," the first line should read: "The President underscored the full authority GRANTED TO and THE complete independence vested in the Constitutional Commission."

THE PRESIDENT: Is Commissioner de los Reyes satisfied?

MR. BENGZON: Madam President, will the Secretary-General please repeat the last amendment?

THE SECRETARY-GENERAL: The last amendment reads: "The President underscored the full authority GRANTED TO and THE complete independence vested in the Constitutional Commission."

MR. BENGZON: I am not an authority on grammar, but I think it does not sound right.

THE PRESIDENT: Actually, this is just a brief summary of the speech of Her Excellency, President Aquino.

MR. RODRIGO. Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: My observation regarding the insertion of the words "GRANTED TO" is based not only on grammar but on substance. Madam President, it might appear that the authority we have is granted to us by the President, which is not correct. Our authority is really derived from the people, and the proclamation by the President is only incidental. So, I think that as the sentence is worded now, it is clearer; it cannot be understood.

MR. DAVIDE: Madam President.

THE PRESIDENT: In order to avoid varying interpretations, why can we not just leave the address of the President as it is?

MR. RODRIGO: I believe that is better, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Yes? Mr. Davide is recognized.

MR. DAVIDE: I am willing to withdraw the proposed amendments to the heading "Address of the President." However, in line with the proposal of the Chair, I move that the entire speech of Her Excellency, President Corazon C. Aquino, be incorporated into the Journal.

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

MR. BENGZON: Madam President, may we now go to my amendment? On page 9, line 6 of Appendix No. 1 should be corrected to read: "AND THREE (3) Assistant Floor Leaders."

THE PRESIDENT: Is there any objection to the motion to amend line 6, Rule 1? of Appendix No. 1? (Silence) The Chair hears none; the amendment is approved.

MR. BENGZON: Madam President, also on page 2, Section 4, line 21, put an S after the word "Leader" to make it plural; insert THREE (3) between the words "his" and "Assistants"; thus: "with his THREE (3) Assistant Floor

Leaders."

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

MR. BENGZON: Also, I propose an omnibus amendment to the effect that should there be any other statements in this Appendix No. 1 that refer to this concept, they should be amended accordingly.

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

MR. BENGZON: Thank you, Madam President.

MR. RAMA: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

APPROVAL OF JOURNAL

MR. RAMA: I move for the approval of the Journal of yesterday's session, as amended.

THE PRESIDENT: Is there any objection to the approval of the Journal of yesterday's session, as amended? (Silence) The Chair hears none; the Journal, as amended, is approved.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

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 Proposed Resolutions on First Reading, Motion and Communication, the President making the corresponding references:

PROPOSED RESOLUTIONS ON FIRST READING

Proposed Resolution No. 1, entitled:

RESOLUTION URGING THE COMMISSION TO FIRST DECIDE ON THE ISSUE OF .SYSTEM, TYPE AND FORM OF GOVERNMENT.

Introduced by Hon. Davide, Jr.

To the Steering Committee.

Proposed Resolution No. 2, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PREAMBLE.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 3, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON DECLARATION OF PRINCIPLES AND STATE POLICIES.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 4, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE BILL OF RIGHTS.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 5, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON DUTIES AND OBLIGATIONS OF CITIZENS.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 6, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL TERRITORY TO ENSURE THE SOVEREIGNTY OF THE REPUBLIC OVER SABAH AND OVERSEAS RECOGNIZED BY THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 7, entitled:

RESOLUTION TO INCORPORATE TO THE NEW CONSTITUTION AN ARTICLE ON CITIZENSHIP.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 8, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON SUFFRAGE.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 9, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION LIMITATIONS ON THE EXERCISE OF THE AUTHORITY TO PROCLAIM MARTIAL LAW OR SUSPEND THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS BY LIMITING ITS DURATION AND REQUIRING CONCURRENCE BY THE LEGISLATURE, EXPRESSLY VESTING UPON THE SUPREME COURT JURISDICTION TO INQUIRE INTO THE SUFFICIENCY OF THE BASIS OF SUCH PROCLAMATION OR SUSPENSION AND TO SET

ASIDE THE SAME IF NO BASIS EXISTS, AND GRANTING THE LEGISLATURE THE AUTHORITY TO REVOKE OR EXTEND A PROCLAMATION OR SUSPENSION.

Introduced by Hon. Davide, Jr.

To the Committee on the Executive.

Proposed Resolution No. 10, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION RESERVING TO FILIPINO CITIZENS OR TO CORPORATIONS OR ASSOCIATIONS WHOSE CAPITAL IS WHOLLY OWNED BY FILIPINO CITIZENS ALONE THE PRIVILEGE AND RIGHT TO DISPOSE, EXPLORE, DEVELOP, EXPLOIT OR UTILIZE THE NATURAL RESOURCES OF THE COUNTRY.

Introduced by Hon. Davide, Jr.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 11, entitled:

RESOLUTION TO GIVE HIGHEST PRIORITY TO THE QUESTION OF WHAT FORM OF GOVERNMENT THE CONSTITUTIONAL COMMISSION WILL ADOPT IN THE PROPOSED NEW CONSTITUTION OF 1986.

Introduced by Hon. de los Reyes, Jr.

To the Steering Committee.

Proposed Resolution No. 12, entitled:

RESOLUTION DECLARING THAT RIVERS, LAKES, BAYS AND LAGOONS AND OTHER BODIES OF WATERS BELONG TO ALL THE PEOPLE AND SHALL BE MAINTAINED AS COMMUNAL FISHING GROUNDS, AND FOR OTHER PURPOSES.

Introduced by Hon. de los Reyes, Jr.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 13, entitled:

RESOLUTION AUTHORIZING THE RECITATION OF A PRAYER AT THE OPENING OF EVERY PLENARY SESSION, COMMITTEE MEETING, PUBLIC HEARING AND OTHER DELIBERATIONS OF THE CONSTITUTIONAL COMMISSION.

Introduced by Hon. Tingson.

To the Steering Committee.

Proposed Resolution No. 14, entitled:

RESOLUTION TO RETAIN THE PROVISIONS OF ARTICLE X, SECTION 11 (1) OF THE 1973 CONSTITUTION AND TO MAKE THE SAME MANDATORY AND APPLICABLE TO CASES PENDING BEFORE THE COURTS.

Introduced by Hon. de los Reyes, Jr. and Maambong.

To the Committee on the Judiciary.

Proposed Resolution No. 15, entitled:

RESOLUTION PROVIDING FOR A CONSTITUTIONAL PROVISION WHICH WILL ASSURE RECOGNITION OF THE CORDILLERA REGION, PREVENT ITS FUTURE DISMEMBERMENT, AND FOR OTHER PURPOSES.

Introduced by Hon. de los Reyes, Jr. and Maambong.

To the Committee on Local Governments.

Proposed Resolution No. 16, entitled:

RESOLUTION TO PROVIDE FOR A NEW ARTICLE ON CONSERVATION.

Introduced by Hon. Azcuna.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 17, entitled:

RESOLUTION TO PROVIDE FOR REGIONAL GOVERNMENTS.

Introduced by Hon. Azcuna.

To the Committee on Local Governments.

Proposed Resolution No. 18, entitled:

RESOLUTION TO PROVIDE FOR CONSTITUTIONAL WRIT OF AMPARO.

Introduced by Hon. Azcuna.

To the Committee on the Judiciary.

Proposed Resolution No. 19, entitled:

RESOLUTION ON THE ROLE OF FARMERS AND WORKERS.

Introduced by Hon. Azcuna.

To the Committee on General Provisions.

Proposed Resolution No. 20, entitled:

RESOLUTION TO PROVIDE FOR AUTHENTIC LAND REFORM.

Introduced by Hon. Azcuna.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 21, entitled:

RESOLUTION TO PROVIDE IN THE CONSTITUTION THAT NO TRANSACTION INVOLVING PUBLIC FUNDS WHETHER OF GOVERNMENT ENTITIES OR GOVERNMENT-OWNED OR CONTROLLED ENTERPRISES SHALL BE EXEMPT FROM AUDIT.

Introduced by Hon. Nollado.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 22, entitled:

RESOLUTION WITHDRAWING THE RIGHT OF BALIKBAYANS WHO HAVE EMBRACED FOREIGN CITIZENSHIP TO ACQUIRE LANDS IN THE PHILIPPINES.

Introduced by Hon. Nollado.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 23, entitled:

RESOLUTION ESTABLISHING A PRESIDENTIAL FORM OF GOVERNMENT FOR THE PHILIPPINES WITH SPECIFIED FEATURES.

Introduced by Hon. Nollado.

To the Committee on the Executive.

Proposed Resolution No. 24, entitled:

RESOLUTION MAKING THE PREAMBLE MORE CONCISE AND EMPHATIC.

Introduced by Hon. Nollado.

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

Proposed Resolution No. 25, entitled:

RESOLUTION LIMITING OWNERSHIP OF PRIVATE LANDHOLDINGS.

Introduced by Hon. Nollado.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 26, entitled:

RESOLUTION TO AMEND THE BILL OF RIGHTS BY PROVIDING THAT THERE IS NO DOUBLE JEOPARDY IN CASE OF MISTRIAL.

Introduced by Hon. Nollado.

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

Proposed Resolution No. 27, entitled:

RESOLUTION PROVIDING FOR THE RESOLUTION OF THE SABAH ISSUE IN THE TRANSITORY PROVISIONS.

Introduced by Hon. Nollado.

To the Committee on Amendments and Transitory Provisions.

Proposed Resolution No. 28, entitled:

RESOLUTION PROVIDING FOR A TRIAL IN ABSENTIA OF GOVERNMENT OFFICIALS WHO HAVE MALVERSED PUBLIC FUNDS OR PLUNDERED THE NATIONAL TREASURY.

Introduced by Hon. Nollado.

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

Proposed Resolution No. 29, entitled:

RESOLUTION TO DETERMINE, AT FIRST INSTANCE, THE FORM OF GOVERNMENT TO BE ESTABLISHED.

Introduced by Hon. Suarez, Tadeo and Jamir.

To the Steering Committee.

MOTION

URGENT MOTION TO CONSTITUTE THE CONSTITUTIONAL COMMISSION AS AN AD HOC COMMITTEE TO IMMEDIATELY CONDUCT PUBLIC HEARINGS ON THE FORM OF GOVERNMENT THAT SHOULD BE SET UP BY THE COMMISSION AND TO DECIDE ON SUCH FORM OF GOVERNMENT WITHIN A SPECIFIED TIME. (Motion No. 1 — Constitutional Commission of 1986)

Introduced by Hon. Nollado.

To the Steering Committee.

COMMUNICATION

Letter from Mr. Abraham F. Sarmiento, President of the National Alliance for Justice, Freedom and Democracy, enclosing the original of a petition signed by an initial 564 qualified voters asking appropriate action for the disqualification of Messrs. Blas F. Ople, Regalado E. Maambong, Rustico F. de los Reyes, Teodulo C. Natividad and Alejandro D. Almendras from the Constitutional Commission.

(Communication No. 1 — Constitutional Commission of 1986) To the Committee on Privileges.

SUSPENSION OF SESSION THE PRESIDENT

The Chair declares a suspension of the session.

It was 3:54 p.m.

RESUMPTION OF SESSION

At 4:19 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

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

MR. DE LOS REYES: Madam President, I was just about to make a comment on the letter of Mr. Sarmiento but I am yielding the floor to Commissioner Bengzon.

Thank you, Madam President.

MR. BENGZON: Madam President, before that, may I ask for a reconsideration of the referral of Proposed Resolution No. 27, entitled: RESOLUTION PROVIDING FOR THE RESOLUTION OF THE SABAH ISSUE IN THE TRANSITORY PROVISIONS. This was committed to the Committee on Amendments and Transitory Provisions. I think it should be referred to the Committee on Preamble, National Territory, and Declaration of

Principles.

THE PRESIDENT: Is there any objection to the proposed amendment to refer Proposed Resolution No. 27 to the Committee on National Territory? (Silence) The Chair hears none; the amendment is approved.

MR. BENGZON: Madam President.

THE PRESIDENT: Yes, Commissioner Bengzon is recognized.

MR. BENGZON: With respect to page 6, the last in the Order of Business, on the last portion of the communication or letter coming from Mr. Abraham F. Sarmiento involving some of our colleagues here, I understand that the President has not even seen a copy of this letter. In view of this, Madam President, and since it involves matters which are very delicate as well as the integrity of the Members of this body, I move that this statement in the Order of Business for today be removed tentatively until the proper time.

THE PRESIDENT: Is there any objection to the motion to delete tentatively from the Order of Business, page 6, the communication referred to? (Silence) The Chair hears none; the motion is approved.

MR. BENGZON: Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

MR. RAMA: In view of the fact that the committees are still being formed and we are about to finish the Business for the Day, and since we are here to undertake the early drafting of the Constitution in accordance with the expectations of the people, I move, Madam President, that with the unanimous consent of the body, we start discussing the prejudicial issue of the form of government. This has to be determined first before we can proceed to other matters.

In the meantime, I would ask that the motion filed by Commissioner Nollado be taken up for consideration. This is Motion No. 1, entitled: URGENT MOTION TO CONSTITUTE THE CONSTITUTIONAL COMMISSION AS AN AD HOC COMMITTEE TO IMMEDIATELY CONDUCT PUBLIC HEARINGS ON THE FORM OF GOVERNMENT THAT SHOULD BE SET UP BY THE COMMISSION AND TO DECIDE ON SUCH FORM OF GOVERNMENT WITHIN A SPECIFIED TIME.

Commissioner Nollado has informed me that he would amend the said motion in order to accommodate a preliminary discussion on the form of government. May I, therefore, move that Commissioner Nollado be recognized.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: With due respect to the Acting Floor Leader, I move that we take up a resolution, which is relevant to yesterday's event on the inauguration of the Commission, which, I believe, is of high importance before we go into a preliminary discussion on the form of government.

THE PRESIDENT: Will Commissioner Davide please specify.

MR. DAVIDE: Since the Commission has approved a resolution of thanks to His Excellency, the Vice-President of the Republic, this Representation would like to propose a resolution expressing the sense of gratitude of the Members of the Constitutional Commission to Her Excellency, President Corazon C. Aquino, for her trust and confidence in the Members of the Commission, in appointing them to the body as well as commending Her

Excellency for her patriotism, nationalism and unwavering adherence to democratic traditions in pledging noninterference in the work of the Commission, thereby assuring the independence of the Commission.

MR. RAMA: I have no objection, Madam President.

THE PRESIDENT: Is there any objection to this resolution just read by our distinguished colleague, the Honorable Davide?

FR. BERNAS: Madam President.

THE PRESIDENT: Yes, Commissioner Bernas is recognized.

FR. BERNAS: Not that I doubt the integrity of the President but I am concerned about the image of the Commission. Already we are subject to criticism because of the fact that this is an appointed body and a formal expression of our thanks for what is due us would seem to indicate a fawning attitude toward the President, and I think it will impair the image of independence which the Commission should have. For that reason, I would like to express my preference that the resolution of thanks to the President for having given all that is due the Commission should not be approved.

THE PRESIDENT: Is there any other comment?

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I just would like to inquire from Commissioner Bernas whether the objection is on the first portion of the resolution. There are two points to the resolution — one, that of thanks, and the second portion, on commending the President for her pledge of noninterference and for assuring the independence of the Commission.

FR. BERNAS: I object to both parts, with all due respect.

THE PRESIDENT: Commissioner Davide, is it possible for the Secretariat to be given a copy so that we can read the entire resolution because it is not just a question of deleting a particular portion? If we are given a copy, we can read it and offer some suggestions. Is that all right?

MR. DAVIDE: Gladly, Madam President. I will now turn over two copies of the resolution.

THE PRESIDENT: The Secretariat will please prepare of copies of this resolution. Mr. Floor Leader, do we have anything in the next business?

MR. RAMA: I would like to restate my motion, Madam President.

MR. RAMA: In view of the fact that we have no other business to take up because the committees are still being formed, I move that we make use of our time by discussing the prejudicial issue which is very necessary for our work — the nature or form of government that we must have under the new Constitution. And to that end, I would like to call on Commissioner Nollado, the movant of the urgent motion, a motion that is related to the discussion of the form of government we must have.

THE PRESIDENT: Is there any objection to the motion of the Acting Floor Leader?

MR. PADILLA: Madam President.

THE PRESIDENT: The honorable Vice-President is recognized.

MR. PADILLA: I have no objection to the motion. On the contrary, I would encourage discussion on the form of government to be established, whether it be presidential or parliamentary. However, I was requesting the Floor Leader to give me an opportunity to announce to our Members that at the luncheon meeting of the Philippine Constitution Association which was attended by fellow Commissioners Azcuna, Bengzon, Foz, Guingona and Regalado, they handed me a copy of their draft of the new Constitution. I am forwarding this to the Madam President with the request that the Secretariat be directed to mimeograph additional copies so that each Member of this Commission may have a copy of this draft. I am now submitting to the President the papers that were entrusted to me by the PHILCONSA

Thank you, Madam President.

THE PRESIDENT: Thank you.

MR. NOLLEDO: Madam President.

THE PRESIDENT: We will make of record that we are receiving the folder of the Communication from the Vice-President. The Secretary-General is instructed to make as many copies as necessary for distribution to the Members of the Constitutional Commission.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Madam President, may I be recognized. I think there was a pending resolution which was objected to by Father Bernas but which was not thrown to the body for any reaction.

THE PRESIDENT: Not yet, because we are printing copies of it so that we will know the exact text of the resolution. We will take that up as soon as the copies are ready.

MR. QUESADA: All right.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Will the Acting Floor Leader yield to a few clarificatory questions?

MR. RAMA: With pleasure.

MR. SUAREZ: As I understand it, we are bound by the Rules of the Commission. Is that correct?

MR. RAMA: That is correct.

MR. SUAREZ: But at present we are governed only by the Provisional Rules drafted by the Commission.

MR. RAMA: That is correct.

MR. SUAREZ: Thank you. I also heard the Acting Floor Leader mention a while ago that we should unanimously suspend the Rules before we go to the freewheeling discussion on the matter of the form of government. Did I hear right?

MR. RAMA: That is correct. That is the effect of the unanimous consent of the body.

MR. SUAREZ: Will the Acting Floor Leader take up the suggestion that he should file a formal motion to suspend the Rules in connection with the freewheeling discussion on the form of government so that we will be free to discuss this without applying rigidly either the permanent Rules or the Provisional Rules of the

Commission?

MR. RAMA: I am amenable to the suggestion.

MR. SUAREZ: Thank you.

MR. RAMA: So, may I request that the President have a ruling on my motion for a freewheeling discussion of the nature of government.

THE PRESIDENT: Is there any objection?

MR. NOLLEDO: Point of inquiry, Madam President.

MR. DAVIDE: Objection, Madam President. I thought that the pending motion is to suspend the Rules. We cannot go into a freewheeling discussion until a motion to suspend the Rules shall have been approved by the body.

MR. RAMA: That is why I am asking the President to ask the body regarding that motion to suspend the Rules.

MR. NOLLEDO: Point of inquiry, Madam President.

THE PRESIDENT: The Honorable Nollado is recognized.

MR. NOLLEDO: I understand I was called upon by the Floor Leader to state my urgent motion to constitute the Commission as an ad hoc committee to immediately conduct public hearings. It seems that I cannot begin my motion because there are many justifiable or unjustifiable interruptions. What is my status now?

THE PRESIDENT: As the Chair understands it, first, there is a motion to suspend the Rules and consider the Honorable Nollado's urgent motion which has been referred to a particular committee. But before any action is taken, we want to find out whether there is any objection that we suspend the Rules in order to consider Commissioner Nollado's motion for this particular afternoon.

MR. NOLLEDO: Thank you.

SUSPENSION OF RULES

THE PRESIDENT: Is there any objection to suspend the Rules for purposes of our acting on this particular motion of Commissioner Nollado before receiving any report from the Steering Committee on the same? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

MR. RAMA: I move that Commissioner Nollado be recognized.

MR. NOLLEDO: Thank you, Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

DISCUSSION ON THE FORM OF GOVERNMENT

MR. NOLLEDO: Thank you very much. I will not speak for a long time although I am known for that. A copy of the motion was distributed to the honorable Members of the Constitutional Commission. I think the Secretariat has distributed the copies, together with my letter to my colleagues asking for their support.

I would like to state that there are similar resolutions filed by the Honorable Davide, Jr., de los Reyes, Jr., Suarez,

Tadeo and Jamir. In connection with these resolutions, I have here in my possession a letter to the honorable President of the Constitutional Commission sent by the Honorable Vicente B. Foz, also asking similarly for the consideration of the form of government. Commissioner Foz stated here that the drafts of the 1935 Constitution and the 1973 Constitution, many provisions of which are now embodied in the Freedom Constitution, should be the basis of our discussion. So, without prejudice to amendments that they may present, I would like to state my motion.

I respectfully move before this Commission that we constitute ourselves as an ad hoc committee to immediately conduct public hearings on what form of government this Commission will adopt for the Philippines; and after the public hearings shall have been conducted, that we should discuss in plenary session the merits of every proposal submitted from the different sectors of our society on that form of government and, at the same time, fix a timetable for the public hearings not exceeding six days, the maximum period; and for the discussion in plenary session also for a period not exceeding six days without prejudice to the immediate discussion on the form of government if so minded by this Commission. That is my motion.

I do not wish to state further the reasons for the motion. They are contained in my letter to my colleagues and are stated in the urgent motion itself filed with the Secretariat.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I propose an amendment to the urgent motion made by Commissioner Nollado. I propose that instead of constituting the Constitutional Commission as an ad hoc committee to immediately conduct public hearings, an ad hoc committee, not the Constitutional Commission itself, be created to conduct public hearings. In that way, we save time and allow the other committees to attend to the other business.

THE PRESIDENT: In other words, is it the point of Commissioner Sarmiento that a smaller committee, instead of the whole Constitutional Commission, be constituted and called the ad hoc committee?

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Personally, I have no objection to the amendment but the reason I would like the whole body to be constituted as an ad hoc committee is that the question is transcendental in character and the amendment essentially alters my motion. And so, instead of myself deciding, I submit it to the body for decision.

SUSPENSION OF SESSION

THE PRESIDENT: Are there any other comments on this motion of the Honorable Nollado? (Silence) The session is suspended.

It was 4:40 p.m.

RESUMPTION OF SESSION

At 4: 55 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. RAMA: The parliamentary situation is that there is a pending motion filed by Commissioner Nollado which Commissioner Bengzon would like to amend May I ask that Commissioner Bengzon be recognized.

THE PRESIDENT: May I clarify this, Mr. Floor Leader. When we suspended the session, there was a proposed amendment of Commissioner Sarmiento. May we ask Commissioner Sarmiento, if he is insisting on his amendment.

MR. PADILLA: Madam President, I believe the situation is that there is a motion by our Acting Floor Leader for a freewheeling discussion on the form of government. The motion for an ad hoc committee of the entire Commission and for the conduct of public hearings is a completely separate and independent motion. I think the parliamentary procedure would be that there be a proposal to amend the motion of the Acting Floor Leader and for the Acting Floor Leader to accept or refuse the amendment. We cannot leave the motion of the Acting Floor Leader pending and attend to another motion which is sought to be amended. We have to go to the prior motion of the Acting Floor Leader.

MR. NOLLEDO: Madam President, for the information of the honorable Vice-President, the Acting Floor Leader and I have agreed that his motion will be consolidated with mine. That is why I added the expression at the end of my motion "without prejudice to a free wheeling discussion of the form of government among the Members." We have agreed. In other words, in effect, we withdrew his motion.

THE PRESIDENT: In other words, the motion that was before the body is the Gentleman's particular motion for the whole Constitutional Commission to consider itself as a committee of the whole to discuss or to conduct public hearings on the structure of government that will be adopted.

MR. NOLLEDO: And that later on to discuss this in plenary session, but without prejudice to a freewheeling discussion, if the body so minds.

THE PRESIDENT: Later on.

MR. NOLLEDO: Yes.

THE PRESIDENT: But then Commissioner Sarmiento proposed to amend that, so that instead of the entire Commission being converted into a committee of the whole, there be only a smaller committee to which it should be referred. Is that correct?

MR. NOLLEDO: Yes, Madam President.

THE PRESIDENT: That was the situation when the session was suspended. What does the Acting Floor Leader say?

MR. RAMA: That is the correct situation, Madam President.

THE PRESIDENT: Thank you. Are there any remarks on the proposed amendment?

MR. PADILLA: Madam President, the main motion of the Acting Floor Leader was for a freewheeling discussion. As amended, it will be without prejudice to a freewheeling discussion. I think the idea is that the Members of this Commission be given an opportunity to explain their views on whether they are for the presidential or parliamentary or some other mixed system, but I do not see any reason for another motion to constitute this Commission or even a portion of this Commission as an ad hoc committee and undertake public hearings for a period of six days. This will unduly delay the very important task of this Commission in expediting the formulation of a new Constitution.

As a matter of fact, I will make a side remark, Madam President There is, for example, a resolution to include the

Preamble or the territory or the Bill of Rights — all of these are fundamental portions of a Constitution that had been there since 1935. We will not advance. We will just say "a resolution to include . . ." Perhaps there is a definite text of a preamble that a Member wishes to be considered in reference to, say, the Preamble in the 1935 Constitution or even the 1973 Constitution. We should have a point of reference on which we can propose some amendments and maybe insert one word or substitute another, and that will expedite our work. But I see so many resolutions, Madam President.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Excuse me. We will let Commissioner Padilla finish his statement first.

MR. PADILLA: But the resolutions do not specify the exact text. So I would suggest, of course, subject to the correction . . .

MR. NOLLEDO: In connection with that, Madam President, I wrote a letter to my colleagues specifying the 1935 and the 1973 Constitutions, most provisions of which now appear in the Freedom Constitution, as the bases of discussion in the plenary session should we decide to adopt the presidential system as the form of government.

And in connection with that, Madam President, because I consider that as argument against my motion, I would like to rebut the arguments. It is not good to ignore the people. We must feel the pulse of the people. We must hear them first because if we go to the drafts of the 1935 Constitution and the 1973 Constitution or the Freedom Constitution immediately without hearing the people, then an impression may be created that we are railroading everything.

THE PRESIDENT: Commissioner Nollado, may the Chair please be clarified on this?

MR. NOLLEDO: Yes.

THE PRESIDENT: There are two matters that are before us. First, shall this Commission consider itself as the committee of the whole or shall it form a smaller committee to act on the structure or to discuss the structure of government? And, second, can this Commission this afternoon enter into a preliminary discussion of the merits of any kind of structure of government. Is that what is included?

MR. NOLLEDO: That is right, Madam President.

Assuming that I agree or the body agrees with the amendment of the Honorable Renato Sarmiento, we are not prevented from having a freewheeling discussion as contemplated by the honorable Vice-President of this Commission.

THE PRESIDENT: And as the Chair understands it, there are Members who are ready to discuss this particular point this afternoon.

MR. NOLLEDO: Yes, I am ready to listen to them.

THE PRESIDENT: Let us then proceed.

MR. NOLLEDO: There is an amendment by the Honorable Renato Sarmiento — I do not know if there is anyone who would like to amend that amendment. As I said, it alters my urgent motion substantially. And so, I submit to the body.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May we address some points of information to the second proponent, Commissioner Sarmiento?

THE PRESIDENT: Please proceed.

MR. SUAREZ: Thank you. I understand that instead of this Commission being constituted as an ad hoc committee to conduct public hearings, the Gentleman would limit the same to a committee of the entire body constituting itself into an ad hoc committee. Did I understand my friend correctly?

MR. NOLLEDO: That is correct.

MR. SUAREZ: The Gentleman did not specify the number of the members of that proposed committee. Will he be kind enough to state, if he has an idea, how many members would compose that ad hoc committee?

MR. NOLLEDO: What I have in mind is Proclamation No. 9. The committee will be composed of national, regional and sectoral representatives. So, the committee will be composed of, say, 10 national representatives, 10 regional representatives and 12 sectoral representatives.

MR. SUAREZ: And does the Gentleman have an idea or suggestion as to how these Members would be designated or appointed?

MR. NOLLEDO: I leave that to the wisdom of our President.

MR. SUAREZ: Would the Gentleman have any objection if the appointments are made by our Madam President in order to abbreviate the proceedings?

MR. NOLLEDO: I have no objection.

MR. SUAREZ: Thank you.

THE PRESIDENT: Are there any other comments? Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, apropos of the amendment of Commissioner Sarmiento, may I introduce the following suggestions: that the President be given a discretion to determine the number of the members of the committee and to appoint the members of the committee provided that, firstly, anyone of the 48 Members of this Commission may attend the public hearing, if he or she wants to, and secondly, this committee will be tasked with providing and determining the rules on how the public hearings will be conducted because I assume that these public hearings ideally will not only be conducted in Metro Manila but also nationwide. So, I would suggest that this committee be tasked with determining the mode of procedure and manner by which these public hearings will be conducted. I wonder if Commissioner Sarmiento would agree to such a proposal, and if he does, then we can word the amendments accordingly.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: I would agree to the amendment being proposed by Commissioner Bengzon.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Yes, Commissioner Nolleto is recognized.

MR. NOLLEDO: In view of the amendment to the amendment, I have no objection to the amendment of Commissioner Sarmiento. I withdraw my objection.

MR. RODRIGO: Madam President, will the sponsor to the amendment agree to the following amendments: instead of 30 members, let us have 15 members? In our Rules, that committee has the biggest number of members. That said Committee on Style has only 15 members. If we have 30 members, it might be too unwieldy;

we might as well have a committee of the whole. I wonder if the sponsor of the amendment will accept the amendment.

MR. BENGZON: Madam President.

THE PRESIDENT: Yes.

MR. BENGZON: The amendment precisely leaves to the discretion of the President the number of membership of the committee. So, I was going to suggest to Commissioner Rodrigo that all of these ideas, even on the number of membership of the committee, be addressed to the discretion of the President because the amendment leaves to the discretion of the President the number of members of the committee.

MR. RODRIGO: Did I hear something to the effect that 30 members shall compose the committee?

MR. BENGZON: That was amended by me, after which Commissioner Sarmiento had agreed.

MR. RODRIGO: Thank you.

THE PRESIDENT: Are there any other comments on the amendments; as amended?

MR. PADILLA: Madam President.

THE PRESIDENT: Yes, the Vice-President is recognized.

MR. PADILLA: I think there are too many subjects in the amendment. Actually, I feel that these are all out of order because the basic motion was for a freewheeling discussion on the floor.

MR. NOLLEDO: Madam President, point of order. We have suspended the Rules.

MR. PADILLA: This motion says "an ad hoc committee"; then it says "conduct public hearings"; then comes "the entire Commission"; "no, reduce it to 30, to 15"; then the Members are to be appointed by the President, etc. I think this is a deviation from the basic concept of the original motion of the Acting Floor Leader for a freewheeling discussion among the Members here present. And we can suspend the Rules only as far as the freewheeling discussion proposed by the Acting Floor Leader is concerned. We cannot suspend the entire Rules especially with regard to the formation of the committees and the powers and prerogatives of these different committees.

Madam President, if there is this ad hoc committee, whether composed of the entire 50 or 30 or 15 or even 5 members, and we conduct public hearings for one week, and then report to the plenary session for another six days, I believe we will be defeating the purpose of the Acting Floor Leader in suggesting just a freewheeling discussion among the Members.

MR. BENGZON: May I clarify, Madam President?

THE PRESIDENT: Yes, Commissioner Bengzon is recognized.

MR. BENGZON: The motion of the Acting Floor Leader for a freewheeling discussion has been approved. So we are going to go into a freewheeling discussion, and in this freewheeling discussion comes the motion of Commissioner Nollado. This is part of the freewheeling discussion. So if we had just disposed of his motion, as amended, and created this committee, and that would have been finished, then the next would have been for anyone of us to be able to stand up and really articulate his ideas on the type of government. The motion of Commissioner Nollado is part of the freewheeling discussion of this body. So, there is no conflict, Madam President.

THE PRESIDENT: The Chair believes that the matter has been clarified, that a lively freewheeling discussion will come after we approve this committee to conduct public hearings because actually in the Order of Business we have the motion of Commissioner Nolleto about the creation of an ad hoc committee, which we referred to the Steering Committee. But then the Acting Floor Leader asked that instead of waiting for the report of the Steering Committee we consider it now by suspending the Rules. And so, precisely, there was an agreement to suspend the Rules and we were discussing the merits of considering the entire Commission as an ad hoc committee. That is the parliamentary situation now.

MR. BENGZON: Yes.

THE PRESIDENT: Therefore, I think we are ready to vote on that.

MR. BENGZON: Yes.

THE PRESIDENT: The motion, as amended, is to authorize the President to create a smaller special committee that will promulgate the rules.

MR. BENGZON: It will be tasked to determine the mode, procedure and manner in the conduct of public hearings, the number of the membership of which committee is left to the discretion of the President, provided that anyone in this Commission is free to attend these public hearings, if he or she so desires.

THE PRESIDENT: I think that is clear enough. We are ready to vote.

MR. RODRIGO: Madam President.

THE PRESIDENT: Yes, Commissioner Rodrigo is recognized.

MR. RODRIGO: I was listening to the proposed function of the committee. Is it limited to determining the manner of the public hearing or will the committee itself conduct public hearings?

THE PRESIDENT: The committee is expected to conduct public hearings.

MR. BENGZON: Madam President, it is not limited to just determining; it will conduct public hearings. It will also determine how these public hearings will be conducted.

MR. RODRIGO: Thank you. That was not clear in the beginning.

VOTING

THE PRESIDENT: May we call for a vote on that now?

As many as are in favor of this particular motion as explained by Commissioner Bengzon, please raise their hand. (Several Members raised their hand.) As many as are against the motion, as amended, please raise their hand. (Few Members raised their hand.)

The results show 33 votes in favor and 8 against; the motion is carried.

MR. RAMA: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Bernas be recognized to speak on the nature of government.

THE PRESIDENT: Commissioner Bernas is recognized.

MR. RODRIGO: Madam President, I think Commissioner Bernas will talk on what he thinks should be the form of government. Before that, may I make a very important clarification.

I would like to speak on this matter, too. I have my own opinion now as to the form of government that we should have, but I want to make it clear that what we say here now — this is a freewheeling discussion — is not our hard-line position yet because we need public hearings. And so, we have our position now but I want to make it clear on the record that we are flexible on these positions depending on the result of the public hearings.

THE PRESIDENT: Thank you.

FR. BERNAS: Madam President, I speak mainly upon the request of Commissioner Rama, and in the spirit of the remarks of Commissioner Rodrigo, what I would like to say is not my firm belief. Rather, what I would like to do today is perhaps to set the parameters of the discussion, the outline for the discussion, on the forms of government.

I believe that in the present state of the discussion on the matter, when we speak of forms of government, we are primarily speaking of two possible areas of discussion; namely, a classification of government based on the relationship between the executive and the legislature and a classification of government based on the relationship of the national government to the local government. When we classify governments on the basis of the relationship between the executive power and the legislative power, we generally classify governments into the presidential system, the parliamentary system or some kind of a combination of the two. And, as we are very familiar with the matter, we can say that the primary characteristic of the presidential form of government is separation of powers between the executive, legislative and judicial branches of the government characterized by the independence of the three but with the President holding some paramount position of precedence. And for that reason, it is referred to as a presidential form of government. Moreover, in this system we have fixed terms both for the executive and for the members of the legislature.

In the parliamentary system, the primary characteristic, it would seem to me, is that executive power is exercised by a Cabinet headed by a Prime Minister which for all practical purposes is a committee of the legislative body, and the executive and the members of the Cabinet hold office at the pleasure of the legislative body. In other words, it is without a fixed term. And the mechanism for terminating the tenure of the members of the Cabinet and of the Prime Minister is by a no-confidence vote whenever there is a fundamental difference or disagreement between the legislature and the executive department. And the democratic character of this system is manifested by the fact that when there is a vote of no confidence, the point of disagreement is thrown to the people. The executive also has a weapon against Parliament in that he can dissolve Parliament. And when there is a disagreement between the two, this is thrown to the people. When national elections are held, the people align themselves either in favor of the legislature or the executive. If a majority of those who were in Parliament are reelected, then that would be an indication that the executive has lost the struggle with Parliament.

So, if I may speak in terms of advantages or disadvantages, one of the advantages of the presidential system is that we have stability of government. At the same time, however, it suffers the disadvantage that we have to wait for a long time before we can replace people we might not be satisfied with. Whereas, in a parliamentary system, it is possible for the sentiments of the people to be immediately felt and reflected in the selection of a new executive and a new Parliament.

So, very roughly, I would say that those could be the parameters of our discussion on whether we select a presidential system or a parliamentary system. Our experience in the Philippines has been primarily with the presidential system. We have never really experienced a parliamentary system. But in the period of the 1973 Constitution, we experienced what was referred to as a modified parliamentary system. It was a presidential system with the President having the power to dissolve the National Assembly and with the National Assembly possessing the power to exercise a vote of no confidence but not against the Chief Executive but against a minor

functionary; namely, the Prime Minister. So, the government which terminated with the February revolution was a government which predominantly was presidential with some characteristics of the parliamentary system.

As we very well know, the idea of dividing power among the executive, legislative and judicial departments is primarily for the purpose of limiting power. Constitutions are made not for the purpose of granting power to government because governments have power inherent in them, but rather for the purpose of limiting power. And the principal device for limiting power is by dividing them into these three departments, the idea being that power can be exercised only with the cooperation of the two departments. And the aberration takes place when one department is able to complete an official act without the cooperation of the others. For instance, in the legislative process, power is jointly exercised by the legislature and by the executive. Aberration takes place when the executive alone can complete a legislation without the help or without the check of any other authority. We also know that this system was transplanted to the Philippines from the United States, this system of limiting power through a horizontal system of distribution of power; namely, the executive, the legislative, and the judiciary. In the American system, aside from this horizontal system of dividing power, there is also the vertical system of dividing power; namely, the powers of the national government and the powers of the local government or the state government. There are certain state powers which are beyond the reach of national government, and there are certain governmental powers which cannot be exercised by the national government because they are reserved for the state government. In that sense, what is effected is a limitation of power, which is intended to prevent the possibility of concentrating power, resulting in a dictatorship. When the system was transplanted to our land by the Americans, what they transplanted was the system of the horizontal distribution of power, not the system of vertical distribution of power. Looking at the history of the United States Constitution — and I think this is a very important point to consider — the federal system of the United States which created a national government was a system designed by the elite of American society precisely for the purpose of neutralizing the power of the masses. When the state governments were confronted by restless farmers and restless debtors — and this became a problem for them — they met among themselves and agreed on a strong federal government, a national government, a bigger government which would be less accessible to the masses and to that extent, less subject to the influence of the masses. So, there is this thesis in the American system that the federal government of the United States is anti-democratic. When the system was transplanted to us, it became worse because not only was a central government created, but the central government was also given complete discretion in what powers the local government should have. In the American system, at least the states retained certain untouchable powers. Here the powers were completely in the hands of the national government. And the question is sometimes asked whether our system, borrowed from the United States, will guarantee that liberty will not be lost, dictatorship will not take place. It is a system which has worked in the United States. It seems to me that it is a system which has not worked in the Philippines and we ask ourselves why. Perhaps, the answer is economic. The great masses of poor and disadvantaged people in the Philippines create a situation of dependence upon patrons. When you have a situation of severe, almost absolute dependence on patrons, if there is this great economic inequality, no matter how strong are the guarantees of liberty you might have, liberty will always be endangered. And it seems to me that is what happened in our country.

Very briefly, therefore, our discussions perhaps could be along these lines, not so much on whether we should have a bicameral or unicameral government — that is secondary, I think — but whether we should have a system of preeminence, or a presidential system with a strict division of powers with term, or rather a more responsive parliamentary system but more complicated in its operation than a presidential system. The other question we must face is: Should we continue a system where practically all governmental power must come from the central government, from Manila? Must we continue the over dominance of Manila over the rest of the country? These, I submit, are some things we could consider in our deliberations.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Will the Gentleman yield to a few questions?

FR. BERNAS: Willingly.

MR. SUAREZ: I heard the Gentleman mention the fact that he is a little apprehensive about the institution or establishment of a presidential system of government for the reason that while there is acknowledged stability, since it provides for a fixed tenure, it is not that these elected government officials enjoy a fixed tenure.

FR. BERNAS: At this stage, I would tentatively contemplate a situation where we would have a fixed term but with an easy terminable tenure. What I mean is, under the present system, if we have a presidential system, the only way of ousting an unsatisfactory president would be by the cumbersome process of impeachment. What I am suggesting is, perhaps we should discover some easier way of making the president responsible.

MR. SUAREZ: So, if we would institute, for example, a system of recall during the term of the presidency, would the Gentleman have any objection?

FR. BERNAS: I would consider that very seriously as a possible alternative.

MR. SUAREZ: Would that be a compelling reason for him to support the presidential structure?

FR. BERNAS: It is a strong reason, but not yet compelling.

MR. SUAREZ: Let us go to the federal system of government that is now prevalent in the United States. The Gentleman is aware of the fact, I suppose, that the United States is a huge land mass. It is not separated internally by seas, by straits, by bays, by lakes; is that correct?

FR. BERNAS: That is correct.

MR. SUAREZ: And the Philippines, upon the other hand, is separated by oceans, by waters, so much so that we have something like 7,104 islands. Is the Gentleman also aware of that?

FR. BERNAS: It is directly for that reason that our situation, perhaps more than that in the United States, calls for greater autonomy of local governments.

MR. SUAREZ: Regional autonomy but not a federal system of government; is my understanding correct?

FR. BERNAS: The name really does not matter. What I have in mind is a system where a central government does not have all the powers; there are certain powers retained by the local governments which may not be touched by the national government.

MR. SUAREZ: In other words, basically, not a principal feature of the federal government as is known and operated in the United States.

FR. BERNAS: That is correct.

MR. SUAREZ: Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: What is the pleasure of Commissioner Davide?

MR. DAVIDE: Will the distinguished Gentleman yield to some clarificatory questions?

FR. BERNAS: Willingly.

THE PRESIDENT: The Gentleman may proceed.

MR. DAVIDE: Did I get the Gentleman correctly as having said that the parliamentary system is more responsive but rather complicated?

FR. BERNAS: I did say that — that there are characteristics of the parliamentary system which make it more immediately responsive to these changing conditions.

MR. DAVIDE: In that respect, therefore, the parliamentary system would be most suited to the needs of the time especially in our country?

FR. BERNAS: This has to be balanced also with the need for stability.

MR. DAVIDE: Would the need for stability not be recognized by the system of recall within a given period? For instance, if we fix the term of the members of the legislature to six years and the term of the Prime Minister also to six years as well as that of the President and allow a recall somewhere at the middle of the term, would it not assure a certain degree of stability?

FR. BERNAS: That would be a possibility.

MR. DAVIDE: In other words, would I be correct if I say that the Gentleman is in favor of a modified parliamentary system of government?

FR. BERNAS: As a matter of fact, that is the direction in which my thinking is going at the moment.

MR. DAVIDE: Thank you, Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Will the Gentleman yield to a few questions? I think we have to look into the historical background of the government of the United States. Is it not true that the United States started as practically independent autonomous states?

FR. BERNAS: That is correct.

MR. RODRIGO: And these states decided to cede some of their sovereignty to the national government?

FR. BERNAS: That is correct.

MR. RODRIGO: So, this is one of the features of a federal system — that autonomous local governments originally had the sovereignty but they decided to cede some of that sovereignty to the national or federal government.

FR. BERNAS: That is correct.

MR. RODRIGO: In the presidential system, it is the other way around-the people delegate the sovereignty to the national government and the national government, in turn, delegates or cedes some of these powers to the local government.

FR. BERNAS: That is correct, at least under the system of the 1935 Constitution.

MR. RODRIGO: Yes. Under that, sovereignty is vested by the people in the national government. How then do we grant sovereign or autonomous powers to the local government? Who will decide on this? I suppose it is we in framing our Constitution, and the people, in ratifying it.

FR. BERNAS: That is correct.

MR. RODRIGO: But this Constitution which we are framing must be couched in general terms; we cannot go into specifics. Is that right?

FR. BERNAS: That would be right.

MR. RODRIGO: Does the Gentleman have any idea on how we should word this general provision?

FR. BERNAS: In as far as framing this general provision is concerned, it will involve, I think, a careful cataloguing of the powers of government. After we have catalogued the powers of government, we will make a decision as to which of these powers should be retained by the national government and which of these powers should be given to the local governments.

Let me give an example. For instance, regarding national defense, who has the last say on national defense? We will make a decision on that. In the disposition of national resources, we will have to make a division of the various types of natural resources — mineral land, forest land, agricultural land. And with respect to each of these questions, we will determine who has the final decision on the disposition of such matters. So, it will involve the careful cataloguing of the powers of government and distribution, and perhaps a cautionary general provision saying that whatever is not distributed in the Constitution is deemed retained by the national government.

MR. RODRIGO: But the process of allocating powers to the local governments follows the unitary system; meaning, from the national we allocate more powers to the local governments. As a matter of fact, this Constitutional Commission is a national commission.

FR. BERNAS: It is a national commission. It is a national convention, a convention capable of giving to the local governments powers which are untouchable by the national government. In other words, in the process of ratification of whatever we may propose here, we will be asking the people if we should strip the national government of some of its powers in favor of the local governments.

MR. RODRIGO: So, basically it is the unitary system that we follow with modifications.

May I clarify my question. We have already stated that the procedure in a federal form of government is, we start with autonomous states, autonomous regions and then these autonomous regions decide if they will cede some of their powers to the national government. So, it is from below to the top. But under the present situation, we cannot go through a procedure like that. It has to be from top to bottom now. From the central government, we cede more powers to the local governments. It might be provided in the Constitution to cede more powers but the powers are lodged from the top, and the top then cedes more powers to the bottom.

FR. BERNAS: When we are speaking of a constitutional commission or a constitutional convention, perhaps it is irrelevant to speak of whether it is a local or a national body. That classification, it seems to me, would be irrelevant because it is either a constitutional commission or not; and it can only be something that is binding on the rest of the nation especially in a commission like this. And in the matter of distribution of power to the national government and the local governments, it would also seem to me that whether it is parliamentary or presidential is irrelevant. What we are talking of is whether it is federal or unitary.

MR. RODRIGO: Yes, federal or unitary.

FR. BERNAS: So, when we say parliamentary or presidential, we are classifying governments on a horizontal level; but when we talk of federal or unitary, we are classifying governments on the basis of their vertical relationship.

MR. RODRIGO: That is right, yes. Can that objective of giving more autonomy to the local governments not be accomplished in a presidential system by providing in the Constitution in broad terms that more local autonomy should be given to the local governments?

FR. BERNAS: Yes. As a matter of fact, the United States has a presidential system but it is a federal system.

MR. RODRIGO: Yes, thank you very much.

MR. VILLACORTA: Madam President, may I be recognized?

MR. ABUBAKAR: Madam President, may I be recognized? My observation is pertinent to the matter now discussed by the Commission because this is a reality.

THE PRESIDENT: Commissioner Abubakar is asking to be recognized. He may proceed.

MR. ABUBAKAR: This is a reality prevailing in the South.

FR. BERNAS: Yes.

MR. ABUBAKAR: Because of the insistence of Muslim leaders in Southern Philippines that they be given more power, more say in the determination of policies in the region, the national government created a legislative assembly for Region IX composed of the Provinces of Sulu, Zamboanga and Basilan, whose Speaker is appointed by the President and whose seat is in Zamboanga City. This assembly legislates for its region on matters concerning powers which the government has delegated to it. Representatives from each province, including the Speaker of the regional assembly, if I still remember, are appointed from Manila. So, we have here a regional setup which has proven to be successful because the people feel that they still have a regional assembly to whom they can appeal and who knows and feels the interest of the region. The Speaker is elected by them and each region — Sulu, Cotabato, Lanao and the other regions — is represented. It is still working and there is no reason why it could not succeed.

It has succeeded and the people realize that the national government has not only appropriated power or neglected them, but has given their representatives the power to legislate or to declare policies for the benefit of the people and the region itself. It is working and it is successful.

I suppose many of the Members of the Commission do not realize this because this applies only to the southern region, Region IX. I personally know the representatives of these provinces to the regional legislative assembly in Zamboanga, and they hold regular sessions. This regional body is not exactly autonomous in the sense that the government has delegated all powers of sovereignty or even part of its sovereignty to this regional body, but the regional body became more conscious of its responsibility.

On the basis of this arrangement which prevails only in Region IX, other regions of the Philippines are encouraged to institute a regional legislative assembly so that the question of welfare policies will be debated by the representatives of the region itself. This does not need any constitutional proviso; the authority of the government to pass the law creating this regional autonomous government has not been contested because the people accept this and are glad that this was created.

I do not see any reason why people from Luzon or the Visayas will contest the regional autonomy of Southern Mindanao, if it is accepted by the people. It is for their benefit; it is responsive to their will, their sentiments and their welfare.

THE PRESIDENT: May the Chair inquire if Commissioner Abubakar has any question to address to Commissioner Bernas so that Commissioner Bernas may sit down, if he no longer has any other questions.

MR. ABUBAKAR: Was this arrangement which had been instituted in Mindanao implemented? Would it meet the situation?

FR. BERNAS: I think the Commissioner has brought up very important points. As a matter fact, in my own thinking on this matter, I would use the autonomous government of Mindanao as a starting point for our discussion.

THE PRESIDENT: Is the Gentleman through with his interpellation of Commissioner Bernas?

MR. ABUBAKAR: I appreciate the remark of Commissioner Bernas, and I merely took the floor to clear up whatever cloud or whatever situations are unknown that are prevailing in the region. That is my only purpose, and I wish to congratulate Commissioner Bernas for his scholarly dissection of the nature and forms of government.

THE PRESIDENT: Thank you. Commissioner Villacorta had previously asked to be recognized. He may proceed.

MR. VILLACORTA. Thank you, Madam President. I just would like to give a few reactions to the remarks of Commissioner Bernas. First of all, in evaluating the merits of the presidential and parliamentary systems, I think we would be doing an injustice to the parliamentary system if we call the Marcos government a modified parliamentary system. What we really had under Mr. Marcos since 1972 was a dictatorship that was cosmeticized by a so-called parliament, with a supposed Prime Minister who was actually appointed by Mr. Marcos and not elected by Members of Parliament. Moreover, although the Marcos Constitution specified the procedure governing the election of the Prime Minister and Members of Parliament, most of these procedures were actually not followed. Under no circumstances, therefore, could we consider the Marcos government as having had a semblance of the parliamentary form of government.

I would like to mention that in weighing the merits of both systems, we should consider the political culture of Filipinos who, according to many scholarly studies, favor a strong national leader. One of the questions that we should ask ourselves is: Which form of government would best guarantee the reduction of the possibility that another dictator might emerge?

I would also like to make an observation about the Gentleman's reference to patronage as the overwhelming or overriding factor in Philippine politics. I think if we were to adopt either the parliamentary or the presidential system without meaningful changes in our electoral process, there will not be any success in reducing the patronage system. Instead of relying solely on the American electoral system, it is time to look into some of the European countries' electoral systems.

For example, the party list system would insure more the possibility of mass-based political parties' participation in political contests, and actual representation in the legislature.

Lastly — this is not just an observation on what Commissioner Bernas has said, but a reaction to some points raised earlier — there seems to be a school of thought here that the best working draft is the 1935 Constitution simply because it was the only one duly ratified by the people. We must remember that the 1935 Constitution was framed during the American colonial period, with the express condition that the draft constitution will have to be submitted to the then President of the United States and subject to the approval of the said president. Without discrediting the 1935 Constitutional Convention Delegates, we should reflect on whether the framers tailored the 1935 Constitution to adopt the ideals of the American presidential system in order to ensure its approval.

Thank you very much.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized:

MR. TINGSON: Will Commissioner Bernas answer some clarificatory questions?

FR. BERNAS: Very willingly.

MR. TINGSON: First of all, may I also give my commendation to Commissioner Bernas for a very enlightening lecture and discourse on the forms of government.

Does Commissioner Bernas agree with this quotation: "For forms of government, let fools decide; what is best administered is the best government." Does that sound sensible to him?

FR. BERNAS: I put it differently. I have always believed that monarchy is the best form of government, provided I am the king.

MR. TINGSON: Very good. In the 1971 Constitutional Convention, we adopted the parliamentary system. If I recall it right, we said in the deliberations that the parliamentary system was more responsive, more responsible and more accountable to the people. Does Commissioner Bernas agree that it is not so in a presidential type of government?

FR. BERNAS: I think it is a question of the decision of the 1971 Constitutional Convention favoring the parliamentary system for being more responsive.

MR. TINGSON: I understand that today, throughout the world, there are more governments of the parliamentary type than of the presidential type, is that true?

FR. BERNAS: I have not made a head count. MR. TINGSON: I do understand that there are more governments of the parliamentary type. Lastly, there is a saying in Pilipino: "Walang matuwid sa politika na mali sa konsensiya." "Nothing is politically right that is morally wrong." Could we apply this to our discussion on the form of government?

FR. BERNAS: There are forms of government which might be called "immoral." The form itself does not characterize the government as moral or immoral. It is more on the uses to which the form is put. So when I called the system we had as "semi-parliamentary" to which Commissioner Villacorta objected, I was referring to the form of government; whereas, the substance may have been something else. Writers talk about a semantic constitution.

MR. TINGSON: Finally, if the administration of the former President did adhere to the characteristics of the form of government we had and if he exemplified moral leadership in this country, would the government then existing have worked?

FR. BERNAS: I would follow the advice of some world leaders who do not answer questions based on "if."

MR. TINGSON: I see. Thank you so much, Commissioner Bernas. (Applause)

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

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Thank you.

I would like to discuss further reference of Commissioner Bernas to economic factors.

I am very convinced that man does not live by bread alone, and that there are more important issues than economic issues. There is no question that economic development is the most immediate concern of the national

government, considering the fact that 70 percent of our population is living below the poverty line, meaning, we are having a hard time putting body and soul together.

I am attracted to a form of government that tries to combine stability and responsiveness because our problem will take a long time to solve. Probably, some people may think that is having your cake and eating it, too. I agree with Commissioner Villacorta when he said that President Marcos never gave the modified parliamentary system a chance to work.

I think we should really try to emulate the strong leadership in the French system, where there is a very strong President while having a parliament. In that way, we can address our efforts to some of the roots of poverty, such as patronage and lack of political will and leadership. We can direct our attention to such questions as land reform and upliftment of the poor. And unless we have a strong national leadership, political will cannot be mobilized.

At the same time, I would like to say that I am attracted to a unitary form of government because right now, talking about autonomy can be misleading. The Philippines is still, somehow, plagued with regionalism, and we are not yet ready to talk about federalism. At least that is how I see it. I would rather use the phrase "decentralization of authority" instead of "autonomy."

I am very much in favor of what is known as the principle of subsidiarity, allowing local governments to take care of what they can competently solve in their respective regions. For example, I see a great need for decentralizing decision-making in the executive branch. There is no reason why there cannot be a Central Bank office, for example, in Cebu, that can decide on foreign exchange transactions. I do not see why the Cebuanos have to come all the way to Manila for a lot of questions addressed to the Central Bank. This could be applied to all the ministries. I know that there are already some attempts by the Ministries of Agriculture and Food and Agrarian Reform to delegate authority to their respective officials in the various regions. I favor this kind of decentralization; but definitely, I do not think we are ready for what we call "federalism."

I would also like to comment on the cultural need for adopting a system which we can call "enlightened paternalism." I know the word "paternalism" is taboo to a number of people and it does connote the patronage that Commissioner Bernas is referring to. Let us take a look at the Japanese who were able to combine some of the favorable factors of paternalism with the modern factors of industrial progress. We can call Japan, Singapore, and Korea as examples of enlightened paternalism. Since most of us here are parents, I am sure you know that one can have a good or a bad father. Even from the management point of view, some people are trying to work with "enlightened paternalism" as it should apply to many Asian societies.

MR. RAMA: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: I would just like to make some remarks following Father Bernas' discourse, and to react to the point of Commissioner Villegas.

Basically, my contribution to the thoughts expressed today will not be on the different forms of government but rather on the substance of what I believe is the question today. I believe the question should be on the basic problems of the country such as poverty, hunger and land. We have the problem of power which is basically on the participation of the majority. We have to consider what system — presidential or parliamentary — will truly empower the people. The different sectors of our society, especially the farmers, the workers, the urban poor, the

fishermen and all those who have been excluded from the political decision-making that shaped their lives, should have a better say. I find this problem the basic question.

That is the reason I find this discussion today fascinating and very constructive wherefrom we can learn. One of the first resolutions we adopted was excellent for we opened the doors of this Commission to the people through public hearings. The fact that some of us have been going to the different provinces trying to find out what people think would later on make this nation aware that we have empowered the people to determine the solutions to their real problems.

I would like to end with this point: The problems of hunger, poverty and land are essentially a problem of power or a problem of participation of the majority. We may have very good ideas regarding land reform but, if the farmer is not consulted or if he does not, in a sense, become the creator of his own history, then we will not be judged very well by history. That is why I would like to make this appeal to my brothers here — we are not simply going to be the only authors of this Constitution, but also our people. Let us write this Constitution together with them.

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

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: May I address a question to Commissioner Bernas, Madam President.

THE PRESIDENT: Commissioner Bernas may yield, if he so desires.

FR. BERNAS: Yes, Madam President.

MR. BENGZON: The system of recall that Commissioner Bernas has articulated could also go the other way around by producing instability, could it not? In other words, if the recall would be too easy, then that would defeat the very purpose for the installation of such a system.

FR. BERNAS: It would depend on the terms of the recall.

MR. BENGZON: Therefore, instead of a recall as called for in a parliamentary system, how about liberalizing the mode of impeachment? Does Commissioner Bernas think that would be better?

FR. BERNAS: I have no fixed ideas on this.

MR. BENGZON: As long as one can insure stability and at the same time put the President or the head of government on his toes, realizing that he could be impeached, would that not be satisfactory?

FR. BERNAS: A liberalized impeachment after a pattern of the "no-confidence" vote on parliamentary system, yes. A recall, as I understand it, is something that is exercised not by the parliament but rather by the electorate. So in that sense, perhaps it could be superior to impeachment in terms of popularity but more expensive.

MR. BENGZON: With respect to the regionalization of certain powers or giving the regions certain autonomy, I am not only speaking of the political will or the political aspect of the people's life. I would also like to extend this discussion not only to the economic aspect but also to the community life in various respective areas. Some people say that we cannot give too much right and power to our people because they are not yet ready for it, or they have not yet been properly politicized, or they do not know yet how to exercise their rights. My thinking is, if we do not begin now, when are we going to begin? So, would Commissioner Bernas agree with the thought that all communities should determine the solutions to their respective problems because they are in the best position to know them? And, therefore, would the Gentleman agree that the Constitution we are going to draft should be general but in such a way as would give people in the barrios freedom to determine and decide for themselves the

solutions to their particular problems?

FR. BERNAS: Certainly As Commissioner Garcia was saying, a very important thing is the reality of people's participation. If the basic Christian communities in the Catholic Church succeeded in many things, it is largely because their own sufficiency was recognized by the church. So, I agree with Commissioner Bengzon that we should recognize the responsibility of basic communities, and that we should not exercise over-paternalism which kills initiative and growth.

MR. BENGZON: Yes, that is the word — "paternity." I do not want to use the word "Christian" because other Filipinos are not Christian.

FR. BERNAS: As a matter of fact, there is a current example now of how government can go to the grass roots. We can translate the structure of basic Christian communities into secular organizations and have them achieve secular ends.

MR. BENGZON: Yes, but if we could provide the basic right and opportunity to these respective communities to really be aware of their problems and to really be encouraged to discuss the solutions to their problems, that would be the best.

FR. BERNAS: Yes, that would be very important so as to make sure that they have a way of having their influences felt in the corridors of power.

MR. BENGZON: Without feeling that they are being patronized. Thank you.

MR. NATIVIDAD: Madam President.

THE PRESIDENT: Commissioner Tadeo asked that he be recognized earlier.

MR. TADEO: Ano ba ang pamahalaang ninanais ng pitumput' limang bahagi ng ating mamamayang magbubukid? Gusto ko lamang susugan ang sinabi ni kasamang Ed Garcia tungkol sa uri ng pamahalaang ninanais ng magbubukid. Sa wikang banyaga ito ay "democratic representation in organs of political power or a form of government which will insure the broadest class in sectoral representation, including the system of proportional representation in legislature." Ang gusto naming pamahalaan ay binubuo ng mula sa kanayunan, ng magbubukid, manggagawa, urban poor, minorya, taong simbahan at mga estudyante. Lahat sila'y bahaging huhubog ng pamahalaan, mula sa pambayan at panlalawigan, hanggang sa pambansa. Naniniwala kami na ang people's power ay napapanahon na upang maging bahagi ng ating Saligang Batas, hindi isang people's power na nasa amin ang people pero wala naman sa amin ang power. Tanggapin natin na kung nasaan ang political power, naroon ang may kapangyarihang gumawa ng batas. Kung ang political power ay nasa kamay lamang ng naghaharing uri na tinatawag nating "elite democracy," naniniwala kaming presidential man o parliamentary ang pamahalaan, ito ay mananatiling "elite democracy." Kaya't sa panig ho ng magbubukid, ang ninanais naming pamahalaan ay democratic representation in organs of political power.

THE PRESIDENT: Commissioner Natividad is recognized.

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

FR. BERNAS: Willingly.

MR. NATIVIDAD: Thank you. I was listening to Commissioner Bernas' analysis of the advantages and disadvantages of a presidential system vis-a-vis a parliamentary system. I happen to have served under a presidential system for three terms in the defunct Congress and also under "a semi-parliamentary system" in the Batasang Pambansa. During the three terms that I served in the old Congress, I felt that we were freer in the

discharge of our duties to represent our people and there were less intrusions into legislative prerogatives. Malaya kami bilang Kinatawan ng aming bayan, distrito o lalawigan, at kayang-kaya naming tutulan ang ano mang sabihin ng Pangulo noon. However, while it is true that we were exercising our legislative responsibilities in a freer atmosphere, there were a lot of stalemates because the executive and the legislative branches tended to run into rival situations, and it meant a lot of lost time.

The main criticism against the presidential system is that we were involved in a tug-of-war struggle for power between the president and the Congress. I remember that. So, there was a hue and cry for a system whereby there will be less check and balance. In a parliamentary system we will be given enough rope to hang ourselves without the traditional check and balance. I agree in part with Commissioner Villacorta. We are arguing the facts of life here. I am here not to apologize for anybody. In fact, I would admit many things in order to arrive at a better Constitution for our country. I would not be here, if I were going to defend anybody.

So, while it is true that the parliamentary system may be more responsive, I would like to ask Commissioner Bernas: Does the semi-parliamentary system deal with problems like initiation and implementation of programs? Remember that the Members of Parliament who were also Members of the Cabinet were the chairmen of the committees. They initiated and implemented programs like those on public works. When they ran for reelection, they ran as incumbents, and they were perceived by the people as having undue advantage over the other candidates. In other countries, how do they avoid such perception? I am referring to parliaments where Members of the Cabinet innovate, author or sponsor programs which they themselves implement. Again when they run for election, they run as incumbents.

Unlike our Congress days, we were not Members of the Cabinet, and we had no plethora of executive support. We ran for Congressmen on our own. I did not experience what Senators Padilla and Soc Rodrigo experienced, but I did experience running three times as a Congressman. So considering the Gentleman's depth of research and knowledge on the matter, what have other countries devised to prevent the birth of discontent of their constituencies in a situation like that?

FR. BERNAS: I really have not made a very thorough study on this. But since Commissioner Natividad made as a point of departure his experience under our semi parliamentary system, perhaps I would begin by the observation that it is very difficult to use it as a starting point because it is a very peculiar thing. If the incumbents under that system enjoyed extraordinary power and advantage, it would seem to me that it was not so much because it was a parliamentary system but because they shared in the overwhelming advantage which executive power had over anybody else. This is not true in other real parliamentary systems. So, if you have a situation where the parliamentarians do not have the overwhelming support of an omnipotent executive, I believe that problems of advantage or disadvantage, which the Gentleman may have encountered, would not take place. I am not aware that in the parliamentary system of Britain or even that of Japan, the incumbents necessarily enjoy extraordinary advantage. As I said, if the incumbents belonging to the ruling party — our experience of the immediate past — were at an advantage, it was because the ruling party was an overwhelming ruling party due to the nature of the executive power found in Amendment No. 6.

MR. NATIVIDAD: So, the system itself, the parliamentary system, as practiced in other countries whereby the Cabinet members initiated and, at the same time, implemented programs as Members of Parliament, did not bring about abuses.

FR. BERNAS: That is my own impression.

MR. NATIVIDAD: Thank you, Commissioner Bernas.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Thank you very much. My questions are directed to Father Bernas. I have three questions. Suppose we do not use the economic benefits simply as the primary factor but rather the promotion and the safeguarding of equality and participation among the people, which is the more responsive kind of government, the presidential or the parliamentary?

FR. BERNAS: I think that for as long as you do not have a measure of economic equality, then all other equalities or liberties become largely ephemeral because their protection depends on the economic balance. In other words, when we draft the Constitution, we will deal with two things: First, we try to identify values — the values we want to protect and emphasize; second, we design systems which will promote and protect those values. So, if we say that for us economic equality is a value which must, at all cost, be promoted, then we must design systems which will insure that this value will be protected.

BISHOP BACANI: Maybe some people are right when they say that, if you want the economic situation of the poor to improve, then you must give them more political power, and this will enable them to rise up even in the economic structure. That is why I would like to propose that the economic factor should not be made the primary criterion of responsiveness. It is just an observation.

The second question is: We Filipinos do not have a very strong national consciousness at present. We are really building a nation now. Considering this factor, will a federal form of government go counter to the growth of national consciousness at this stage of our national development?

FR. BERNAS: I would answer that question by saying that when you are building a strong unity, you must first build strong individuals, because only strong individuals can forge a strong unity. So for us to have a strong national government, we must strengthen the local governments. If we go back to the history of the United States, the lack of national consciousness on the part of the original states did not prevent the Americans from forming a strong national government. And they succeeded precisely because they had already strong state governments.

BISHOP BACANI: Thank you.

Just a final question for my information. Can we have both a parliamentary and federal form of government?

FR. BERNAS. Yes, Malaysia and Germany have both forms of government, if I am not mistaken.

BISHOP BACANI. Thank you very much.

ADJOURNMENT OF SESSION

MR. RAMA: Madam President, I move that we adjourn the session until tomorrow at three o'clock in the afternoon.

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

It was 6:28 p.m.

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