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Wednesday, July 9, 1986

CALL TO ORDER

At 2:55 p.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Jose N. Nolledo, to wit:

O, Dakilang Diyos, hinihingi po namin ang Inyong awa, pagmamahal at pagkalinga sa aming makasaysayang pagbalangkas at pagbuo ng isang Saligang Batas na tunay na maka-Pilipino at maka-tao, isang Saligang Batas na tumatangkilik sa mga karapatang pambayan at hahango sa kahirapan ng marami naming mamamayan, isang Saligang Batas na magbibigay ng tunay na pag-asa sa aming mga kababayan at magpapatibay ng kanilang loob sa kanilang pagtahak sa daang puno ng tinik at kapighatian tungo sa masagana at maligayang kinabukasan at nawa'y makintal sa isipan ng buong sambayanang Pilipino sa lalong madaling panahon ang paniniwalang may langit din pala sa daigdig. Hinihingi po namin ang mga ito sa ngalan ng Inyong Bugtong na Anak na si Hesus na naghahari kasama po Ninyo at ng Banal na Espiritu Santo, iisang Diyos, magpakailan man.

Siya Nawa.

ROLL CALL

Upon direction of the Chair, the Secretary-General of the Commission called the Roll and the following Members responded:

Abubakar, Y. R. Foz, V. B.

Alonto, A. D. Garcia, E. G.

Aquino, F. S. Gascon, J. L. M. C.

Azcuna, A. S. Guingona, S. V. C.

Bacani, T. C. Jamir, A. M. K.

Bengzon, J. F. S. Lerum, E. R.

Bennagen, P. L. Maambong, R. E.

Bernas, J. G. Monsod, C. S.

Rosario Braid, F. Natividad, T. C.

Brocka, L. O. Nieva, M. T. F.
Calderon, J. D. Nollado, J. N.
De Castro, C. M. Padilla, A. B.
Colayco, J. C. Muñoz Palma, C.
Quesada, M. L. M. Suarez, J. E.
Rama, N. G. Sumulong, L. M.
Regalado, F. D. Tadeo, J. S. L.
Rigos, C. A. Tan, C.
Rodrigo, F. A. Treñas, E. B.
Romulo, R. J. Uka, L. L.
Rosales, D. R. Villacorta, W. V.
Sarmiento, R. V. Villegas, B. M.

With 42 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

Concepcion, R. R.
Ople, B. F.
Davide, H. G.
De los Reyes, R. F.
Laurel, J. B.

Mr. Tingson notified the Constitutional Commission, through the Secretariat, of his absence.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Calderon, there being no objection, the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body.

REFERENCE OF BUSINESS

On motion of Mr. Calderon, there being no objection, the Body proceeded to the Reference of Business.

REFERRAL TO COMMITTEES OF RESOLUTIONS

Upon direction of the Chair, the Secretary-General read, on First Reading, the titles of the following proposed Resolutions which were, in turn, referred by the Chair to the Committees hereunder indicated:

Proposed Resolution No. 446, entitled:

RESOLUTION ESTABLISHING MULTI-PARTY POLITICAL SYSTEM

Introduced by Honorable Ople, Natividad, Maambong and De los Reyes, Jr.

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Proposed Resolution No. 447, entitled:

RESOLUTION PROPOSING TO INCLUDE IN THE CONSTITUTION A PROVISION PROHIBITING HAMLETTING, ZONING, FOOD BLOCKADE, AND SIMILAR CRUEL AND INHUMAN MILITARY MEASURES AGAINST CIVILIAN COMMUNITIES

Introduced by Honorable Tan, Tadeo, Colayco, Sarmiento, Bennagen, Aquino, Suarez and Bacani

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Proposed Resolution No. 448, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION PROHIBITING THE USE OF TORTURE FOR ANY PURPOSE

Introduced by Honorable Garcia

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Proposed Resolution No. 449, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION PROVISIONS FOR THE CREATION OF THE PEOPLE'S POLICE COUNCIL COMPOSED OF THE MAJOR SECTORS IN THE LOCALITY THAT WILL MONITOR AND PROVIDE SANCTIONS AGAINST ANY SYSTEMATIC POLICE ABUSES

Introduced by Honorable Bennagen

TO THE COMMITTEE ON GENERAL PROVISIONS

Proposed Resolution No. 450, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION FOR THE USE OF THE INDIGENOUS WRITTEN LANGUAGE AND ALPHABET OF THE ETHNIC MINORITIES WHEN VOTING IN ANY NATIONAL OR LOCAL ELECTIONS, PLEBISCITE OR REFERENDUM

Introduced by Honorable Bennagen

TO THE COMMITTEE ON GENERAL PROVISIONS

Proposed Resolution No. 451, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION PROVISIONS RELATIVE TO THE PROBLEM OF ENGLISH, SPANISH, AND FILIPINO, OUR MOTHER TONGUES, NATIVE LANGUAGES AND DIALECTS, AND OTHER RELATED SUBJECTS

Introduced by Honorable Davide, Jr., Maambong, Jamir, Uka, Abubakar and Rama

TO THE COMMITTEE ON HUMAN RESOURCES

Proposed Resolution No. 452, entitled:

RESOLUTION FOR THE ENCOURAGEMENT AND PROMOTION OF PEOPLE'S ORGANIZATIONS

Introduced by Honorable Gascon

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Proposed Resolution No. 453, entitled:

RESOLUTION FOR THE PROTECTION OF OUR ENVIRONMENT AND THE PRESERVATION OF OUR NATURAL RESOURCES

Introduced by Honorable Gascon

TO THE COMMITTEE ON NATIONAL ECONOMY AND PATRIMONY

Proposed Resolution No. 454, entitled:

RESOLUTION TO INCORPORATE THE RIGHT TO EDUCATION OF EVERY CITIZEN IN THE BILL OF RIGHTS OF THE NEW CONSTITUTION

Introduced by Honorable Gascon, Villacorta, Guingona, Treñas and Rosario Braid

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Proposed Resolution No. 457, entitled:

RESOLUTION DECLARING THE RIGHT OF THE PEOPLE TO ELIMINATE A TYRANNY AND TO REPLACE IT WITH A DEMOCRATIC GOVERNMENT

Introduced by Honorable Ople, Maambong, De los Reyes, Jr. and Natividad

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

COMMUNICATIONS

Communication No. 146 — Constitutional Commission of 1986

Communication from Mr. Manuel A. Argel of Vigan, Ilocos Sur, proposing, among other a parliamentary form of government patterned after that of France, the synchronization of elections, a bicameral legislature, and abandonment of the Sabah claim

TO THE STEERING COMMITTEE

Communication No. 147 — Constitutional Commission of 1986

Unnumbered resolution of the Association of Disabled Persons of Rinconada and Iriga City (ADPRIC) requesting the inclusion of provisions which would grant disabled Filipinos priority of employment in government and private entities

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 148 — Constitutional Commission of 1986

Letter from Mr. Rolando R. Abad of San Isidro, Pili, Camarines Sur, requesting the inclusion of provisions on land reform, education and language

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 149 — Constitutional Commission of 1986

Letter from Lakas ng Manggagawa signed by Mr. Daniel Edralin, submitting general proposals on basic constitutional issues and a particular resolution affording more protection to labor and guaranteeing human and trade union rights

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 150 — Constitutional Commission of 1986

Telegram from Ms. Maria Lusia Lorenzo of Manila, expressing opposition to any provision imposing a national language

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 151 — Constitutional Commission of 1986

Letter from Mr. Romulo P. Sandejas III of Legaspi City, proposing free education and health service, among others

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 152 — Constitutional Commission of 1986

Letter from GABRIELA signed by Sr. Mary John Mananzan, OSB, enclosing its manifesto calling for the full emancipation of women, and for justice, freedom, democracy, and prosperity for the people

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No. 153 — Constitutional Commission of 1986

Letter from the Philippine Institute of Environmental Planners signed by Mr. Cesar H. Concio, enclosing a position paper prepared by Mr. Rene S. Santiago and endorsing particularly the proposals on autonomous regional governments.

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communications No. 154 — Constitutional Commission of 1986

Letter from Mr. Pedro M. Espina of the Knights of Columbus, Virgen Sa Barangay Council No. 8362, City of Tagbilaran, suggesting, among others, a bill of duties and obligations of citizens enumerated explicitly to counterbalance the bill of rights

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communications No. 155 — Constitutional Commission of 1986

Letter from Mr. Prisco P. Orcullo, Jr. of Salvacion, San Agustin, Surigao del Sur, proposing the translation of the constitution into different Philippine dialects and requiring every head of the family to secure a copy free or in exchange for sales receipts

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 156 — Constitutional Commission of 1986

Letter from Mr. Fidel R. Milan and eleven others of Sta. Catalina, Zamboanga City, requesting provisions on Urban land Reform, free hospitalization, creation of Urban Poor Ministry, and handicraft skills training

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 157 — Constitutional Commission of 1986

Letter from Mr. Edward M. Kelly of Assumption Sapang Palay College, Inc., submitting proposals on the

equality of man and woman, protection of the environment, housing and education, among others

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 158 — Constitutional Commission of 1986

Letter from Mr. Orlando F. Caliolio of Southern City Colleges, Zamboanga City, requesting inclusion in the Bill of Rights of a provision granting the right to keep and bear arms for self-defense

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No. 159 — Constitutional Commission of 1986

Communication from Anchor Foundation, Inc. and Anchor Broadcast Council, Sta. Mesa, Manila, requesting inclusion of a provision that will promote and protect the people's right to the use of the airwaves for broadcast media

TO THE COMMITTEE ON NATIONAL ECONOMY AND PATRIMONY

Communication No. 160 — Constitutional Commission of 1986

Letter from the People's Secretariat for the Constitutional Commission signed by Mr. Rizal Ruiz Amon, forwarding the position paper of the Filipino Inventors Society proposing provisions for invention, science, and technology

TO THE COMMITTEE ON HUMAN RESOURCES

COMMITTEE REPORTS

Committee Report No. 16 on Proposed Resolution No. 455, prepared by the Committee on Accountability of Public Officers, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE TRANSITORY PROVISIONS OF THE 1986 CONSTITUTION CERTAIN SECTIONS TO IMPLEMENT THE PROPOSED ARTICLE ON ACCOUNTABILITY OF PUBLIC OFFICERS,

recommending its approval.

Sponsors: Hon. Monsod, Colayco and Members of the Committee on Accountability of Public Officers

TO THE STEERING COMMITTEE

Committee Report No. 17 on Proposed Resolution No. 456, prepared by the Committee on Accountability of Public Officers, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE 1986 CONSTITUTION AN ARTICLE ON ACCOUNTABILITY OF PUBLIC OFFICERS,

recommending its approval in substitution of Proposed Resolutions Nos. 61, 66, 74, 76, 121, 125, 218, 223, 229, 280, 344, 353 and 354.

Sponsors: Hon. Monsod, Colayco and Members of the Committee on Accountability of Public Officers

TO THE STEERING COMMITTEE

CHANGES IN REFERRALS OF RESOLUTIONS

On motion of Mr. Rama, there being no objection, the Body approved changes of referrals from the Committee on Social Justice to the Committee on Preamble, National Territory and Declaration of Principles of Resolution No. 277, entitled:

Resolution to incorporate in the new Constitution a provision on a national health policy for a comprehensive health care delivery system for the entire country

and from the Committee on General Provisions to the Committee on Human Resources of the following Resolutions:

Resolution No. 265, entitled:

Resolution proposing to incorporate the study of the life and works of our national hero, Jose Rizal, in the new Constitution

Resolution No. 266, entitled:

Resolution proposing to incorporate the study of the Constitution in the New Charter

Resolution No. 270, entitled:

Resolution proposing for the inclusion of optional religious instruction in public schools in the new Constitution

Resolution No. 96, entitled:

Resolution to incorporate in the new Constitution a provision which seeks to hasten the integration of the cultural communities in the country

Resolution No. 164, entitled:

Resolution providing that media of communication shall promote, strengthen and protect our national cultural identity, foster constructive values, customs and traditions and afford respect to the culture of national minorities

Resolution No. 347, entitled:

Resolution to incorporate in the new Constitution a provision on ancestral lands for the cultural communities

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 7 ON PROPOSED RESOLUTION NO. 322

Thereafter, on motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading (Period of Amendments), of Committee Report No. 7 on Proposed Resolution No. 322, entitled:

Resolution to include in the new Constitution an Article providing the procedure for its amendment.

Thereupon, the Chair recognized Mr. Suarez, sponsor of the measure.

REMARKS OF MR. SUAREZ

Mr. Suarez presented to the Body the completed Committee Report No. 7 containing Section governing the system of initiative, which section reads as follows:

SECTION 2. - THE PEOPLE MAY, AFTER FIVE YEARS FROM THE DATE OF THE LAST PLEBISCITE HELD, DIRECTLY PROPOSE AMENDMENTS TO THIS CONSTITUTION THROUGH INITIATIVE UPON PETITION OF AT LEAST TEN PER CENT OF THE REGISTERED VOTERS.

He stated that the proposal was suggested on the theory that the system of initiative, which evolved from recent political developments, has to be separated from the traditional modes of amending the Constitution as embodied in Section 1. Moreover, Mr. Suarez expressed the Committee's view that the system of initiative should be limited only to amendments and should not be extended to revision of the Constitution. He also aired the Committee's concern that the power to amend the Constitution may be susceptible to abuse in such manner that it would be exercised repeatedly and that putting a limitation of a five-year period from the date of the last plebiscite is reasonable. He added that the 10% to required to exercise this right is also reasonable because in a voting population of 26 million, the task of getting the 2.7 million affirmative votes needed is not impossible, though a little bit difficult. He pointed out that the traditional methods of amendment are still provided in Section 1, paragraphs (a) and (b).

Mr. Suarez adverted to Mr. Maambong's inquiry regarding the applicability of Section 3 in connection with the use of the words "election" and "plebiscite" on which he had opined that in the application of Section 3, the call to a constitutional convention could not be submitted to the people in a special plebiscite as it operates only simultaneously with the calling of an election. To clarify the interpretation of Section 3, Mr. Suarez explained that the Section would operate with or without the election, and a plebiscite for the purpose could be called independently.

THE CHAIR'S INQUIRY

At this juncture, the Chair inquired whether the Body would go through another period of interpellation on the substitute resolution or if the resolution being offered is a part of the amendment, in response to which, Mr. Suarez informed the Chair that the Committee would be willing to accommodate interpellations on Section 2 of the completed Committee Report No. 7.

Mr. Rama, in reply to the Chair's inquiry, stated that there were still Members who would like to debate on certain portions of the Proposed Resolution.

INTERPELLATION OF MR. RODRIGO

Mr. Rodrigo prefaced his interpellation by stating that the Committee on the Legislative had drafted a provision for initiative and referendum on ordinary legislation which shall be initiated by at least 10% of the registered voters in the immediately preceding election. He noted that Committee Report No. 7 on Proposed Resolution No. 322 also suggested the same figure to initiate a constitutional amendment although the Committee obviously would want to make the method of constitutional amendment more difficult than the proposal for ordinary legislation. He stated that the National Assembly may propose a constitutional amendment upon a vote of three-fourths of all its Members, an ordinary legislation calls for a majority, and a constitutional convention may be called upon a two-thirds vote of all Members of the National Assembly.

In view thereof, Mr. Rodrigo inquired whether the percentage required to initiate a constitutional amendment should not be higher, to which, Mr. Suarez replied that the Committee would entertain any amendment to the Section at the proper time.

On whether the 10% of registered voters should manifest their desire through signatures, Mr. Suarez replied in the affirmative.

On whether the draft of the proposed amendment could be referred to the people before the collection of the signatures, Mr. Suarez stated that the draft proposal could be prepared before submission to the people and that as envisioned, any Filipino citizen or group could prepare the proposal and submit the same to the populace for their signatures.

As to how the 10% of the registered voters would participate in drafting the amendment considering the present experience that any constitutional amendment has to be carefully considered, Mr. Suarez stated that the detailed mechanics could be ironed out later but what is more important is that there is a proposal which substantially gives life to democratic processes and which could be marketed for acceptability among 10% of the registered voters. He stated that the ultimate test of the proposal would be the presentation of the final draft to the Commission on Elections for submission in a plebiscite. He also explained that the voters composing the 10% would not necessarily be coauthors of the proposal, the important thing being their conformity to the proposal manifested by their signatures. He stressed that the process of submitting the proposal is different from the process of submitting the accepted proposal to a plebiscite for its ratification.

Mr. Rodrigo pointed out that in a body like the National Assembly, the Constitutional Convention or the Constitutional Commission, every proposal is extensively studied and discussed before it is submitted to the people. He then inquired whether it would be possible for one person or a group of persons to draft the proposal and have it signed by the people who did not participate in the drafting.

In reply, Mr. Suarez stated that even if the proposal were drafted by one person, as long as 10% of the registered voters signify their conformity through their signatures, the proposal could be accepted.

On Section 4, on the query as to how the date of approval of the proposal through the system of initiative could be determined as compared to the date of approval by the National Assembly or Convention which could easily be ascertained, Mr. Suarez stated that the Committee was of the opinion that the operative date should be the date when the Commission on Elections certifies that the required number of registered voters had been obtained. He stated, however, that it is up to the Body to adopt or not to adopt said suggestion.

On whether it is possible and sufficient that the required 10% of the registered voters who would initiate a Constitutional amendment would only come from Metro Manila, Mr. Suarez stated that while it is possible, it had been suggested in the Committee that a certain percentage from the provinces should register their affirmative vote on the proposal, which suggestion could be presented during the period of amendments. In the absence of an amendment by a Member to that effect, Mr. Suarez stated that it could be presented as a Committee amendment.

Finally, Mr. Rodrigo pointed out that whereas in the National Assembly as well as in the Constitutional Conventions, the whole Philippines is represented, under the system of initiative, certain areas of the country may not be represented at all.

REMARKS OF MR. SARMIENTO

Mr. Sarmiento expressed appreciation for the decision of the Committee to retain the system of initiative as a mode of amending the Constitution. His survey of State Constitutions in the United States disclosed that thirteen States provide for such a system, among them are Arizona, Arkansas, California, Colorado, Massachusetts, Michigan, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oklahoma and Oregon.

On the question raised as to what body would draft the proposals of the people, Mr. Sarmiento informed that in Alaska, the initiative petition is prepared by the Lieutenant Governor while in Colorado, the original draft of the text of proposed constitutional amendments is submitted to the Legislative Research and Drafting Office of the General Assembly for review and comment.

Relative thereto, Mr. Sarmiento read a portion from the book entitled *The American Federal Government: Suffrage, Nominations and Elections* which says that "Initiative is an electoral device through which an individual or a group may propose a statutory legislation or constitutional amendment by securing the signatures of the requisite number of voters and may place the measure before the electorate for adoption or rejection. The drafting of such measures is normally done by interested groups or their attorneys. The number or proportion of signatures required is set by law."

On the percentage of registered voters that could initiate the system of initiative, Mr. Sarmiento agreed with Mr. Rodrigo's stand that the system should be made more difficult with respect to constitutional amendments by increasing the percentage, the Constitution being the fundamental law of the land.

On the five-year period after which the people could propose amendments to the Constitution, Mr. Sarmiento opined that the provision is quite stringent considering that within said period situations may arise requiring amendments to the Constitution.

INTERPELLATION OF MR. BACANI

In reply to the query of Mr. Bacani, Mr. Suarez underscored the need for providing a system of initiative as a mode of proposing constitutional amendments in order to give meaning and significance to the concept of people power. Should Section 2 be not adopted, Mr. Suarez adverted to the two traditional methods of proposing amendments to the Constitution provided for under Section: 1, paragraphs (a) and (b).

Mr. Suarez also affirmed that Section 2 would allow different groups to present simultaneously different proposals for submission to the people for ratification.

INTERPELLATION OF MR. BERNAS

On Mr. Bernas' initial queries, Mr. Suarez affirmed that the details on how to carry out the system of initiative would be left to the legislature and that in the absence of an implementing law, the provision would not operate. He pointed out, however, that no amendment through the system of initiative could be called until after five years from the date of the ratification of the new Constitution, within which period the new National Assembly could come up with the implementing law governing the exercise of this power.

Mr. Suarez disagreed with the observation that the provision would not exclude the possibility that what would be presented to the people for ratification would be the work of the legislature rather than of the people. He affirmed that the procedure would not allow the legislature to amend the formula to be presented.

On Section 3, on the use of the word "electorate", Mr. Suarez explained that it has reference to voters who would participate either in a plebiscite or election.

INTERPELLATION OF MS. AQUINO

In reply to the query of Ms. Aquino, Mr. Suarez affirmed that the intention of the proposal is to vest constituent power in the people to amend the Constitution.

Ms. Aquino, however, stated that while she concurs with the underlying precept of the proposal in terms of institutionalizing popular participation in proposing amendments to the Constitution, she has reservations on the draft of Section 2, as worded.

Relative thereto, in reply to the queries of Ms. Aquino, Mr. Suarez agreed that in the hierarchy legal mandate, constituent power takes primacy over all other legal mandates and that there is a great deal of circumspection in

the drafting and in amending the Constitution so that there should be a separate article that should specifically cover the process and modes of amending the Constitution.

On whether he would concede to the legislature the requirement of determining the mechanics of amending the Constitution by people's initiative, Mr. Suarez stated that the matter of implementing the provision to cover all conceivable situations should be left to the National Assembly. However, he expressed willingness to entertain amendments that would define, modify or amplify the provisions of Section 2.

On whether the provisions of Section 2 are self-executing, Mr. Suarez stated that they are, explaining that Section 2 should be interpreted together with the provisions of Section 4, although as worded, Section 4 does not provide for the take-off date for the 60-day and 90-day period.

On whether he would accept an amendment to realign Section 2 as another paragraph (c) of Section 1 instead of setting it up as a separate section, Mr. Suarez stated that he would be amenable, although he pointed out that the system of initiative is limited to the matter of amendment to the Constitution while paragraphs (a) and (b) of Section 1 include the process of revision.

On whether illiterates would be allowed to vote, Mr. Suarez stated that they would not be disqualified from voting since they could signify their conformity to a proposal not necessarily by signatures.

Mr. Guingona then disclosed that the Committee on the Legislative had come up with a proposed provision that the details on the matter of initiative be left to the legislature.

Mr. Guingona then manifested that he would propose that the registered voters spoken of in Section 2 be specified to refer to the registered voters in the immediately preceding election, in reply to which, Mr. Suarez pointed out that the Committee had decided to refer to the list of registered voters existing at the time of the submission of a proposal considering that there could be a continuing process of registration and purging of voters' lists.

Finally, Mr. Guingona suggested that, in case Section 2 which contains the proposal on initiative would be approved, the last portion of Section 3, which reads "or by a majority vote of all its Members, submit the question calling such convention to the electorate" be deleted, to avoid too much expenses resulting from successive political exercises.

INTERPELLATION OF MR. NATIVIDAD

In reply to Mr. Natividad's query on whether the National Assembly, in proposing any amendment or revision of the Constitution, needs to enact enabling legislation to be submitted to the people before a plebiscite could be held, Mr. Suarez affirmed that based on historical precedence, the National Assembly should come up with a proposal to be submitted to the people for ratification in a plebiscite to be called for the purpose.

On whether there had been any instance in the past wherein the proposal to amend or revise the Constitution was delayed due to lack of enabling legislation, Mr. Suarez stated that there was none, although the common complaint of the people was the inadequate opportunity to thoroughly discuss, analyze and review the proposed amendments submitted.

On the provision regarding the five-year interval within which constitutional amendments may be proposed Mr. Suarez affirmed that it would prevent frequent amendments to the Constitution which could financially overburden the government.

In this connection, Mr. Natividad proposed that such interval be increased to six years to apply not only to the system of initiative as a mode of amendment but also to the other modes provided in paragraphs (a) and (b) of

Section 1. He explained that this would also preserve the Constitution and prevent frequent amendments which only suit the powers-that-be, in reply to which, Mr. Suarez stated that the proposal would be considered during the period of amendments.

On Mr. Natividad's suggestion that the 10% of registered voters required to initiate Constitutional proposals should come from all parts of the country because of the political reality, as in the case of recall, that politicians could easily influence and get the votes in their bailiwick, Mr. Suarez stated that the Committee would be amenable to considering the suggestion to allow nationwide participation.

INTERPELLATION OF MR. MAAMBONG

Mr. Maambong prefaced his interpellation by pointing out certain clarifications earlier made 1) that a Constitutional Convention may be called not only by election but also by a plebiscite, and 2) on the interpretation of the word "amendment."

He associated himself with Mr. Rodrigo's concern that providing for peaceful means of amending the Constitution would avert changes through a revolution.

On the interpretation of the term "Constitutional Convention", Mr. Suarez affirmed that under the proposal, after the people had consented to the calling of a constitutional convention, there would be an election of delegates to said convention.

Mr. Suarez also affirmed 1) that there should be an enabling law calling for the election of delegates, at the same time providing therein the number of delegates and the appropriations therefor; 2) that the legislature has no power to just name the delegates to the Constitutional Convention without calling an election; and 3) that the legislature cannot delegate the authority to name the delegates.

Mr. Suarez stressed that only the legislature can determine the number of delegates to the Constitutional Convention and no other body should enjoy that prerogative. He agreed with Mr. Maambong that the delegates should not be elected at large.

Finally, Mr. Suarez also agreed that upon the convening of the Constitutional Convention, the legislature loses control over it.

INTERPELLATION OF MR. LERUM

In reply to Mr. Lerum's query, Mr. Suarez stated that it should be the Commission on Elections (COMELEC) which would determine if the required 10% of registered voters is met, which is why the Committee proposes to use as a take-off date the issuance of the COMELEC certification that said required number of voters had indeed been obtained. In this connection, he affirmed that the Constitutional proposal together with the required signatures should be submitted to the COMELEC.

TERMINATION OF PERIOD OF SPONSORSHIP AND DEBATE

There being no other Member who wish to interpellate or to speak against the proposed Resolution, on motion of Mr. Rama, there being no objection, the Body closed the period of sponsorship and debate.

PERIOD OF AMENDMENTS

On motion of Mr. Rama, there being no objection, the Body proceeded to the Period of Amendments.

There being no Committee amendment, the Body considered the following individual amendments:

PROPOSED AMENDMENT OF MR. RODRIGO

Thereupon, Mr. Rodrigo proposed to delete the entire Section 2, as unnecessary. He maintained that the present provisions of the Constitution on the modes of proposing amendments are very democratic because the National Assembly or the Constitutional Convention would be composed of delegates elected from all parts of the country on the basis of their stand on certain constitutional issues.

Mr. Rodrigo stated that the recent people's revolution in EDSA was not an indication that the people want to initiate constitutional amendments directly. He said that the case of initiative in one part of the United States could not be applied to the Philippines which has more population and is divided into islands making it difficult and impractical to secure the more than 2,700,000 signatures of registered voters.

Furthermore, Mr. Rodrigo stated that because of time constraint, the Commission should gear its efforts towards going back to real constitutional democracy instead of going into controversial matters.

In reply, Mr. Suarez, as sponsor, did not accept the proposed amendment, on the ground that 1) said Section 2 would be a mechanism that is responsive to the sentiments of the people; 2) the National Assembly, as provided in Section 1(a), may not be able to muster enough votes to constitute itself into a Constituent Assembly or to call a Constitutional Convention; and 3) the system of initiative is fundamental because it emanates from the people and affords them a direct participation in the exercise of their rights.

MANIFESTATION OF MR. RAMA

Mr. Rama manifested that Messrs. Tadeo and Gascon would like to speak against the proposed amendment and that the 5 minutes allotted for it under the Rules could be shared by them.

REMARKS OF MR. TADEO

Mr. Tadeo stated that it is common knowledge that the present government was installed through people power and that the Constitutional Commission was convened also because of people power.

Mr. Tadeo pointed out that when the Commission was finally convened, the Members were hopeful that people power could be institutionalized in the Constitution so that the people could be given political and economic powers. He stated that one step towards giving them political power is through the multi-party system, and another, through the system of recall and the system of initiative.

He cited the Kilusang Magbubukid ng Pilipinas (KMP), a national organization of farmers, as one of the sectoral groups which would greatly benefit from the system of initiative.

For the reasons he had stated, Mr. Tadeo maintained that contrary to Mr. Rodrigo's observation, the system of initiative is practical rather than impractical.

REMARKS OF MR. GASCON

Mr. Gascon, likewise, expressed his objection to Mr. Rodrigo's proposal on the grounds: 1) that in a representative government, the Constitution must enshrine the principle that power emanates from the people, and that the system of initiative could ensure the exercise of such power; 2) that the amendment is practical because the country's history of struggle for independence and social change has shown the people's readiness to fight for what is right; and 3) that the amendment would prevent the lethargy of representatives who express only the interest of their class.

VOTING ON MR. RODRIGO'S PROPOSED AMENDMENT

Thereafter, submitted to a vote, and with 8 Members voting in favor and 27 against, the amendment was lost.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to substitute the entire Section 2 with the following:

SECTION 2. - ANY AMENDMENT TO THIS CONSTITUTION MAY LIKEWISE BE DIRECTLY PROPOSED BY THE PEOPLE THROUGH INITIATIVE UPON A PETITION, DULY VERIFIED BEFORE THE COMMISSION ON ELECTIONS OR ANY OF ITS REGISTRARS, OF AT LEAST TEN PER CENT OF THE TOTAL NUMBER OF REGISTERED VOTERS AS OF THE IMMEDIATELY PRECEDING NATIONAL ELECTION, OF WHICH EVERY LEGISLATIVE DISTRICT MUST BE REPRESENTED BY NOT LESS THAN TWO PER CENT THEREOF. THE PETITION SHALL BE FILED WITH THE COMMISSION ON ELECTIONS WHICH SHALL FORTHWITH TRANSMIT THE PETITION TO THE NATIONAL ASSEMBLY. THE NATIONAL ASSEMBLY SHALL, NOT LATER THAN THIRTY DAYS FROM RECEIPT THEREOF, ENACT A LAW SUBMITTING THE PROPOSED AMENDMENT TO AND APPROPRIATING FUNDS FOR A PLEBISCITE.

NO AMENDMENT UNDER THIS SECTION SHALL BE AUTHORIZED WITHIN FIVE YEARS FROM THE APPROVAL OF THIS CONSTITUTION NOR OFTENER THAN ONCE EVERY FIVE YEARS THEREAFTER.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:33 p.m.

RESUMPTION OF SESSION

At 4:59 p.m., the session was resumed.

MODIFIED AMENDMENT OF MR. DAVIDE

Upon resumption of session, Mr. Davide presented a modified amendment by substitution taking into consideration the suggestions submitted by the Sponsor and by Messrs. Guingona, Monsod, Rama, Ople, de los Reyes and Romulo, which amendment shall read:

SECTION 2. - AMENDMENTS TO THIS CONSTITUTION MAY LIKEWISE BE DIRECTLY PROPOSED BY THE PEOPLE THROUGH INITIATIVE UPON A PETITION OF AT LEAST TWELVE PER CENT OF THE TOTAL NUMBER OF REGISTERED VOTERS OF WHICH EVERY LEGISLATIVE DISTRICT MUST BE REPRESENTED BY AT LEAST THREE PER CENT OF THE REGISTERED VOTERS

THEREOF. NO AMENDMENT UNDER THIS SECTION SHALL BE AUTHORIZED WITHIN FIVE YEARS FOLLOWING THE RATIFICATION OF THIS CONSTITUTION NOR OFTENER THAN ONCE EVERY FIVE YEARS THEREAFTER.

THE NATIONAL ASSEMBLY SHALL BY LAW PROVIDE FOR THE IMPLEMENTATION OF THE EXERCISE OF THIS RIGHT.

Mr. Suarez accepted the amendment, as modified, stating that it is reflective of the sense contained in Section 2 of the completed Committee Report No. 7.

REQUEST OF MS. AQUINO

At this juncture, upon request of Ms. Aquino, the Chair directed the Secretariat to reproduce and distribute copies of the modified amendment.

INQUIRIES OF MR. ROMULO

In reply to Mr. Romulo's query on whether the legislature would be allowed to set forth the procedure for the initiative to be carried out as in some American states where the proposal is submitted to the State Attorney General who puts it in proper form before it is presented for ratification, Mr. Davide stated that the legislature could provide for a similar procedure and he affirmed that under such procedure the proponents could go to court if they find the proposition not acceptable after another body, which the legislature may provide, has gone over it.

As to whether the body referred to could be the COMELEC, Mr. Davide stated that the amendment, as modified, deleted the reference to the COMELEC. He affirmed that the amendment would not prevent the legislature from tapping another body to put the proposition in proper form since the implementation of the system of initiative would be subject to legislation.

Specifically, on whether the procedure and the determination of the proper form for submission to the people would be subject to legislation, Mr. Davide stressed that the procedures to be proposed by the legislative body should not diminish or impair the people's right to initiate amendments.

PROPOSED AMENDMENT OF MR. NATIVIDAD

In reply to Mr. Natividad's query on whether he would still be amenable to considering an amendment to the amendment, Mr. Davide stated that the Committee had already accepted his amendment. Mr. Natividad, however, proposed six years, instead of five years, for the period within which no amendment may be authorized under Section 2.

In reply, Mr. Davide pointed out that considering the two other modes of amendment, one by the National Assembly and another by a Constitutional Convention, the amendments to the Constitution may in fact be made more frequent than once every 5 years. He stressed that the people, by initiative, could submit a proposal only for purposes of amendments but not for the revision of the Constitution. He also stressed that the Legislature cannot be prevented from proposing amendments as often as it wants under its authority upon a vote of three-fourths or submit the question of calling a constitutional convention to the people.

Mr. Natividad argued that his amendment would dovetail the period of six years with the term of the President and would indicate that the Constitution shall not be amended more than once during the term of the President.

In reply, Mr. Davide suggested that Mr. Natividad introduce an amendment in relation to the authority of the National Assembly to propose an amendment or to call a constitutional convention.

At this juncture, Mr. Natividad proposed to the Sponsor that on line 7, after "proposed", the colon (:) be changed to a comma (,) and to add BUT NOT MORE OFTEN THAN EVERY SIX (6) YEARS FROM THE DATE OF THE LAST PLEBISCITE.

Mr. Suarez suggested that Mr. Natividad's amendment be submitted to the floor.

VOTING ON THE AMENDMENT OF MR. NATIVIDAD

Submitted to a vote, and with 6 Members voting in favor and 25 Members against, the amendment was lost.

INQUIRY OF MR. PADILLA

In reply to Mr. Padilla's query on whether it would be better to reduce the 10% requirement for purposes of initiating legislation instead of increasing to 12% the requirement for constitutional amendments, Mr. Davide stated that he could not agree to the amendment because the import of the proposal would make the process of amendment more rigorous and to reduce the required percentage would need another voting by the Committee on the Legislative. He suggested that Mr. Padilla bring up his proposal by way of an amendment when the Commission considers in plenary session the Article on the Legislative.

With respect to Mr. Padilla's suggestion to provide for the procedural details on initiative as an anterior article which can be pointed to by reference without repeating it in a subsequent article, Mr. Davide maintained that the proper situs would be the Article on Amendments because it would clearly distinguish the right of the people in ordinary legislation from their right to propose amendments to the Constitution. He also opined that the mere fact that the provision appears later in the Constitution does not mean that it would repeal the previous provision because the two are distinct and separate concepts.

Mr. Padilla, however, questioned the need to include the details on implementation under the amendment by initiative considering that no such details were included in the provision on amendment by the National Assembly.

In reply, Mr. Davide explained that the proposal on initiative and referendum in the proposed Article on the National Assembly would also lead to ordinary legislation on the mechanics, manner and exceptions thereto, the only thing mandatory upon the legislature being the requirement on the number of signatures on a petition for an initiative or petition for referendum. He stated that the National Assembly would be left to enact an implementing law on the exercise of the right to petition by initiative and, similarly, legislation would be required to implement the concept of initiative and referendum under the Article on the National Assembly.

On whether the phrase under Section 27 of the Committee Report on the National Assembly which says "at least 10 per cent of the registered voters in the immediately preceding election" means that the determination shall be made by the National Assembly in disregard of any action by the Commission on Elections, Mr. Davide replied that such requirement would be mandatory in the law to be enacted by the legislature to implement or set in motion the right of initiative and referendum and that the Committee's view is that the matter of requiring a certain percentage of the total number of votes in any given area within the 10 per cent requirement may be provided by law.

INQUIRY OF MR. MAAMBONG

Mr. Davide confirmed that the word "amendment" on line 1 of Section 2 does not cover the word "revision" as defined by Mr. Padilla. Mr. Davide explained that "amendments or revisions" are covered by Section 1 and that insofar as the system of initiative is concerned, it only refers to amendments and not to revision.

Mr. Davide also confirmed that the time frame mentioned in Section 2 applies only to amendment by initiative and not to any other form of amendment.

As to whether a proposed amendment may be lost should it fail to garner the required 3 per cent of the votes cast in one district though nationwide it was able to get more than the 12 per cent required votes, Mr. Davide explained that under this situation the amendment will be lost. Mr. Davide stated that by requiring a certain percentage of the registered voters in any given district the Committee wants to be sure that the 10 per cent is truly representative of all the districts.

Thereafter, Mr. Maambong suggested that the proponent and the sponsor reconsider the amendment because of its implications that one district or one political leader could defeat the intention of the whole country.

INTERPELLATION OF MR. MONSOD

In answer to the query of Mr. Monsod as to the time frame for filing an initiative petition, Mr. Davide explained that the time limitation is five years after the ratification of the Constitution, the first such amendment being at any time between the sixth and tenth years following the ratification.

On whether the Commission on Elections shall be the government agency to determine the validity of signatures, Mr. Davide stated that such can be provided for by the National Assembly in the implementing law for the exercise of the right of initiative.

MR. RIGOS' AMENDMENT TO THE AMENDMENT

Mr. Rigos proposed to delete the last sentence of the first paragraph, which reads:

NO AMENDMENT UNDER THIS SECTION SHALL BE AUTHORIZED WITHIN FIVE YEARS FOLLOWING THE RATIFICATION OF THIS CONSTITUTION NOR OFTENER THAN ONCE EVERY FIVE YEARS THEREAFTER.

Mr. Rigos explained that inasmuch as the Body has not limited the prerogative of the National Assembly to propose amendments, it should not also limit the people's right of initiative.

Mr. Davide did not accept the amendment stating that it is divisive and that allowing the people to amend the Constitution at any time they wish may destroy the stability of the Constitution. He explained moreover that the five-year limitation was originally a Committee proposal and that his amendment only touched on the initiative to propose amendments after the first five years.

VOTING ON MR. RIGOS' AMENDMENT

Submitted to a vote and with 13 Members voting in favor and 18 against, the amendment was lost.

INQUIRY OF MR. RODRIGO

Mr. Rodrigo stated that it would be mathematically possible under the requirement of the 12 per cent of the total number of registered voters, for any two groups to campaign for two inconsistent amendments and actually get the required 12 per cent vote.

Mr. Davide stated that any number of amendments may be proposed simultaneously but such amendments shall be submitted to a plebiscite once every five years.

In cases where any number of inconsistent amendments would qualify as to the percentage requirement, Mr.

Davide explained that even though such amendments may be inconsistent, it is the people's will that shall prevail in the plebiscite. As to the manner of presenting such amendments to the people in a plebiscite, Mr. Davide clarified that the legislature, shall by law, provide for the implementation of the exercise of this right and such law may state that in such instances where there are separate, inconsistent proposals for amendments, these should be taken up and whatever may be approved by the majority of the people would be deemed valid.

Mr. Rodrigo manifested his objection to the amendment which he believed is impractical stating that no such situation would arise when either the National Assembly or the Constitutional Convention proposes an amendment.

In reply thereto, Mr. Davide stated that should this event happen, the legislature shall have the power to propose an amendment by a vote of three-fourths to correct the inconsistency.

Mr. Rodrigo pointed out that under the Section, whenever there is an initiative by the people by means of the required number of votes to propose an amendment, the National Assembly is bound to provide for the implementation and exercise of the right by appropriating the funds and submitting the proposed amendment to a plebiscite.

Mr. Davide maintained that it would depend on the provisions of a particular enabling statute. He said that should there be different, inconsistent amendments which would be presented to a plebiscite in any given year, the legislature may defer consideration of such amendments for a certain period of time — such as five years — provided that such amendments are so inconsistent that they may cause confusion if approved.

PROPOSED AMENDMENT OF MR. JAMIR

Mr. Jamir proposed to delete the phrase "through initiative" after the word "people" as it is the people who are initiating the amendment and allowing the clause to stand as it is, would be redundant.

REMARKS OF MR. OPLE

Mr. Ople opined there is no superfluity in saying that the people may act directly through initiative as this would simply put the stamp of democratic tradition on the proposed Section. He remarked that the Body is not reinventing the system of initiative as a mode of presenting Constitutional amendments and as a reserve power of the people which gives them the right to exercise direct action in case of failure of the National Assembly to respond to a critical situation requiring a constitutional amendment or when it becomes dissatisfied with the legislature. The inclusion of the word "initiative", he manifested, would introduce to the proposal the great body of democratic traditions of the system of initiative exercised by such countries as Switzerland which has a 1000-year old tradition of initiative and referendum. In view thereof, he requested Mr. Jamir to let the word "initiative" stand, which request Mr. Jamir accepted.

AMENDMENT OF MR. SARMIENTO

Mr. Sarmiento adverted to the UP draft and the State Constitutions which refer to initiative as a reserve power together with recall and referendum.

He proposed the substitution of the word "right" with "power" on the last line of Section 2, which proposal was accepted by Messrs. Davide and Suarez.

Submitted to a vote, and with 26 Members voting in favor and 2 against, the amendment was approved by the Body.

Mr. Sarmiento then proposed the insertion of the phrase OF THE PRECEDING GENERAL ELECTION after the word "voters" on line 5.

Mr. Davide explained that to use the total number of registered voters in the immediately preceding general election would considerably reduce the total number of required signatories who might not adequately represent the sentiments of those who have registered after the preceding election.

Thereupon, Mr. Sarmiento withdrew his amendment.

On Mr. Sarmiento's proposal to change the phrase "initiative upon a petition" to UPON AN INITIATIVE PETITION following the wordings used by State Constitutions, Mr. Davide stated the need to maintain the Filipino language of the proposal.

Mr. Sarmiento withdrew his proposal.

MR. GASCON'S AMENDMENT TO THE AMENDMENT

On the rationale for using the term "legislative district", Mr. Davide informed that the Committee on the Legislative had voted had the scheme of representation by district for Members of the National Assembly. He affirmed that the term is used in anticipation of the problem that may arise from too much concentration in a particular region of an initiative petition.

On the observation that a legislative district is much smaller than a province or region, Mr. Davide explained that a legislative district may be the same as the province if its population is the same or less than the required number of inhabitants and that a province may consist of several districts depending on the number of its inhabitants.

Mr. Gascon then proposed to change the words "legislative district" to REGION.

Mr. Davide, however, pointed out the difficulty of defining a region considering that for purposes of political administration, there are thirteen regions including the National Capital Region and, if it refers to the traditional geographical regions, there are only three, namely, Luzon, Visayas and Mindanao. He stated that he was submitting the proposal to the Body with the observation that it might dilute the sanctity of the original proposal.

Thereupon, Mr. Gascon withdrew his proposed amendment and instead proposed that the term "legislative district" be changed to PROVINCE OR CITY.

Mr. Davide accepted the proposed amendment which Mr. Suarez, in turn, accepted.

INQUIRY OF MR. MONSOD

In reply to the query of Mr. Monsod, Mr. Davide stated that "city" would include the component as well as highly-urbanized cities.

OBJECTION OF MR. BENGZON

Mr. Bengzon interposed an objection to the proposed amendment to the amendment on the ground that it could be used as a tool to enhance personal politics.

Mr. Gascon, by way of reaction, stressed that his proposal would make it easier for the people to invoke the system of initiative. He pointed out that the problem raised by Mr. Bengzon could be taken care of during the process of ratification.

INQUIRY OF MR. RODRIGO

Relative to the words "province or city", in reply to Mr. Rodrigo's query as to how Metropolitan Manila would be classified, Mr. Davide explained that the political subdivision, composed of municipalities from the provinces of Rizal and Bulacan and the cities within the area, evolved because of the creation of the Metropolitan Manila Commission. He stated that under the proposal, the cities of Metro Manila should be considered individually. He opined that the Metro Manila Commission is not recognized as a separate political subdivision and informed that there is a move in the Committee on Local Governments to abolish the metropolitan concept of government, although the matter would be reviewed later depending on the report of said Committee. He also explained that in the computation of the percentage for purposes of the initiative, the votes in the municipalities would be considered with the votes of the rest of the province to which they belong.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 6:05 p.m.

RESUMPTION OF SESSION

At 6:09 p.m., the session was resumed.

WITHDRAWAL OF THE PROPOSED AMENDMENT TO THE AMENDMENT

Upon resumption, Mr. Gascon withdrew his proposed amendment to the amendment with the assurance that retaining the term "legislative district" would make it easier for the people to assert their sovereign will as far as the system of initiative is concerned.

RECONSIDERATION OF THE APPROVAL OF MR. SARMIENTO'S AMENDMENT ON SECTION 2

At this juncture, Ms. Aquino moved to reconsider the approval of the amendment on the last sentence of Section 2, changing the word "right" to POWER.

In support of her motion, Ms. Aquino pointed out that the word "power" represents a political concept which connotes as a condition precedent the presence of strength before it could be invoked; while "right" is more potent whether or not there is strength or power to assert it.

OBJECTION OF MR. SARMIENTO

Mr. Sarmiento objected to the motion for reconsideration, stating that it was out of order and that "power" is stronger than "right".

Submitted to a vote, and with 22 Members voting in favor and 6 against, the Body reconsidered the approval of the amendment and retained the word "right" in the last sentence of Section 2.

RESTATEMENT OF SECTION 2, AS AMENDED

On request of Mr. Maambong, Mr. Davide restated Section 2, as amended, to read:

SECTION 2. - AMENDMENTS TO THIS CONSTITUTION MAY LIKEWISE BE DIRECTLY PROPOSED BY THE PEOPLE THROUGH INITIATIVE UPON A PETITION OF AT LEAST TWELVE PER CENT OF THE TOTAL NUMBER OF REGISTERED VOTERS, OF WHICH EVERY LEGISLATIVE DISTRICT

MUST BE REPRESENTED BY AT LEAST THREE PER CENT OF THE REGISTERED VOTERS THEREOF. NO AMENDMENT UNDER THIS SECTION SHALL BE AUTHORIZED WITHIN FIVE YEARS FOLLOWING THE RATIFICATION OF THIS CONSTITUTION NOR OFTENER THAN ONCE EVERY FIVE YEARS THEREAFTER.

THE NATIONAL ASSEMBLY SHALL BY LAW PROVIDE FOR THE IMPLEMENTATION OF THE EXERCISE OF THIS RIGHT.

APPROVAL OF SECTION 2, AS AMENDED

Thereupon, submitted to a vote, and with 31 Members voting in favor and 3 against, the Body approved Section 2, as amended.

MR. MONSOD'S AMENDMENT, AS AMENDED

As proposed by Mr. Monsod, amended by Mr. de los Reyes and Ms. Aquino, and accepted by the Sponsor, the Body unanimously approved Section 4, as amended to read:

SECTION 4. - ANY AMENDMENT TO, OR REVISION OF THIS CONSTITUTION UNDER SECTION 1, SUBPARAGRAPHS (A) AND (B) SHALL BE VALID WHEN RATIFIED BY A MAJORITY OF THE VOTES CAST IN A PLEBISCITE WHICH SHALL BE HELD NOT EARLIER THAN SIXTY DAYS AND NOT LATER THAN NINETY DAYS AFTER THE APPROVAL OF SUCH AMENDMENT OR REVISION.

AMENDMENT UNDER SECTION 2 SHALL BE VALID WHEN RATIFIED BY A MAJORITY OF THE VOTES CAST IN A PLEBISCITE WHICH SHALL BE HELD NOT EARLIER THAN SIXTY DAYS AND NOT LATER THAN NINETY DAYS AFTER THE CERTIFICATION OF THE COMMISSION ON ELECTIONS OF THE SUFFICIENCY OF THE PETITION.

PROPOSED AMENDMENT OF MR. DAVIDE

On line 18, after the word "electorate," Mr. Davide proposed to add the words IN A REFERENDUM and, thereafter, a sentence to read as follows:

IF THE QUESTION IS AFFIRMATIVELY VOTED UPON, THE NATIONAL ASSEMBLY SHALL, WITHIN THIRTY (30) DAYS FROM THE DAY OF THE REFERENDUM, ENACT THE LAW CALLING THE CONVENTION.

The Sponsor suggested that the proposal be submitted to the Body.

Mr. Davide explained that under the 1935 and 1973 Constitutions, the call for a convention would be submitted in an election, whereas the proposal would submit the call in a referendum not simultaneous with an election in order that the issue could be meritoriously considered by the people.

He maintained that the additional sentence would safeguard the will of the people from any inaction by the National Assembly since it would be compelled to enact the law calling for the convention within 30 days from the day of the referendum.

REMARKS OF MR. MAAMBONG

Thereupon, Mr. Maambong remarked that the matter had been explained by the Sponsor and that the question could be submitted to the electorate in an election or plebiscite.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 6:28 p.m.

RESUMPTION OF SESSION

At 6:30 p.m., the session was resumed.

EXPLANATION OF MR. SUAREZ

Upon resumption of session, Mr. Suarez explained that under Section 3, the National Assembly is mandated to call a constitutional convention by a vote of two-thirds of all its Members and to pass an enabling act providing for the necessary mechanism for the convention to submit the proposed amendments to the people in a plebiscite called for the purpose; and that the proposal was unnecessary.

Mr. Davide withdrew his proposed amendment on the understanding that the enabling act is the call itself.

TERMINATION OF THE PERIOD OF AMENDMENTS

There being no further amendments, on motion of Mr. Rama, there being no objection, the Body terminated the period of amendments.

APPROVAL ON SECOND READING OF PROPOSED RESOLUTION NO. 322, AS AMENDED

On motion of Mr. Suarez, Proposed Resolution No. 322 was submitted to a vote on Second Reading, and with 29 Members voting in favor and none against, the same was approved by the Body.

Thereupon, Mr. Suarez, on behalf of the Committee on Amendments and Transitory Provisions, expressed gratitude to the Members of the Commission for their patience and cooperation during the consideration of the Article on Amendment or Revision.

APPROVAL ON THIRD READING, OF PROPOSED RESOLUTION NO. 263

Thereafter, on motion of Mr. Rama, there being no objection, the Body proceeded to vote, on Third Reading, on Proposed Resolution No. 263, entitled:

Resolution to incorporate in the new Constitution an Article on National Territory.

Upon direction of the Chair, the Secretary-General called the Roll for nominal voting. Thereafter, a second call was made.

EXPLANATIONS OF VOTES

The following Members explained their votes:

By Mr. Bacani

Mr. Bacani voted in the negative, stating that while he was not against dropping claims, the definition of "national territory" would seem to foreclose the claims on Sabah since it only covers those territories over which the government exercises sovereign jurisdiction. He also stated that despite the assurance that the formulation does not in any way foreclose the claim, its language is flexible only to a certain extent and does not bear the interpretation being given to it.

By Mr. Bernas

Mr. Bernas, who voted Yes, stressed that 1) the last sentence is one aspect of the archipelagic principle which many other nations accept; 2) the Article is a good description of the country's territory which includes those territories ceded by Spain to the United States and eventually transferred to the sovereignty of the Republic of the Philippines, and those outside the Archipelago over which the government exercises jurisdiction; and 3) the Article does not make any uncertain claim on any territory, and therefore avoids conflicts with other nations, out at the same time, it does not prevent the country from making use of any accepted means of establishing a claim to a territory.

By Mr. de Castro

Mr. de Castro voted No on the ground that the phrase "all other territories over which the government exercises sovereign jurisdiction" dropped the country's claim to Sabah. He stressed that instead of defining those territories over which the government has jurisdiction by historic right or legal title to solidify future claims, the Commission has dropped the claim on Sabah without giving the Executive an opportunity to be heard thereon.

By Mr. Concepcion

In voting No, Mr. Concepcion stated that the word "exercises" is different from "has", since actual exercise of sovereignty is essential to the acquisition of a territory but not to the retention of sovereignty. He added that such requirement would weaken the country's claim over Sabah, which claim, he believed, should not be given up. He further explained that once a country acquires sovereign rights, it does not need to exercise said rights to retain sovereignty. Therefore, said requirement was a limitation of the rights and amounts to giving up the claim to Sabah.

By Mr. Davide

Mr. Davide stated that he was constrained to vote No even if the Committee Report was based on his proposed Resolution, because 1) the Article casts serious doubts on the validity of the country's claim to Sabah; 2) it diminishes the government's right to pursue said historic claim; and 3) that it would be an act of liberality to accommodate not the Filipinos but the welfare of other nations.

By Mr. Gascon

Mr. Gascon, who voted Yes, explained that in the continuing struggle for self-determination and independence, the will of other people of the world particularly in Southeast Asia, must also be recognized for their own liberation and for giving peace a chance.

By Mr. Guingona

In voting No, Mr. Guingona stated that the provision on national territory should be flexible and should not foreclose future territorial claims particularly over Sabah. He said that the amendment of Mr. Bernas could be misconstrued to mean abandoning the country's claim to Sabah even before a thorough and unbiased evaluation of it could be made.

He opined that with the provision, government officials may be making illegal and irresponsible claims, contrary to the desire that they should act properly.

Additionally, he informed that even Malaysians recognize the right of the Philippine government to pursue its claim over Sabah.

And finally, he pointed out that those who voted in favor of the amendment of Mr. Bernas were just relying on the

latter's assurance which would have no binding effect.

By Mr. Maambong

Mr. Maambong voted Yes on the ground that the Sponsor had provided a specific definition of the country's territorial boundaries, supported by applicable laws and maps which could be referred to in the determination of said territories.

By Mr. Ople

In voting Yes, Mr. Ople recalled that he objected to the proposed deletion of the entire Article, on the ground that said Article would be an inventory of all territories that belong to the Philippines. Since the Commission was writing a Constitution of peace and reconciliation, he stated that he gave a lot of weight to the opinions advanced by Messrs. Abubakar, Alonto and Uka that the reformulation of Mr. Bernas' amendment would help accelerate the return of enduring peace and unity between Christian and Muslim Filipinos in Mindanao.

He also opined that with Mr. Bernas amendment, the country would not be accommodating other nations, rather, it sets a good definition of the national territory which is endowed with sanctity for every Filipino, that the territory is, indeed, under our sovereign jurisdiction.

Finally, he disagreed that the provision would foreclose the claims of the Philippines over other territories.

By Mr. Padilla

Mr. Padilla stated that although he believes a Constitution should contain an Article on National Territory, he was voting No because of the change of the phrase "historic right or legal title" to "over which the government exercises sovereign jurisdiction", as a consequence of which, the phrase "over which the Philippines has sovereignty or jurisdiction" contained in the 1973 Constitution was deleted.

He stressed that the clause "over which the government exercises sovereign jurisdiction" is unacceptable because the word "Philippines" was changed to "government"; the word "has" was changed to "exercises"; and word "sovereignty" was transformed into an adjective to qualify "jurisdiction." He also noted that the present text of the Article requires that the Philippines must have actual exercise of sovereign jurisdiction instead of sovereignty or jurisdiction.

By Mr. Rama

Mr. Rama voted No, stating that he believes in the validity of the claim to Sabah and that the researches he had made in the 1960s and the articles he had written for the Philippines Free Press led to the filing of a formal claim to Sabah.

He recalled that on July 10, 1946 the British government issued an annexation order which laid the basis of its claim of sovereignty over Sabah by virtue of the fact that this document transferred to it the rights of the British North Borneo Company. He pointed out, however, that records would show that the British North Borneo Company never exercised public power since it was a private corporation and, therefore, following the principle *nemo dat quod non habet*, it could not have given to the British government what it did not have.

On the argument that the claim may give rise to violence, Mr. Rama stated that the Philippine government insisted on a peaceful settlement and even invited Malaysia to take the question to the International Court of Justice, which she refused to do.

Finally, Mr. Rama stressed that he is more concerned with the rights of the Filipinos than the rights of the Malaysians.

By Mr. Rigos

Mr. Rigos voted No for the same reason given by Mr. Concepcion.

By Mr. Rodrigo

In voting Yes, Mr. Rodrigo stated that the Article clearly defines what is rightly Philippine territory.

By Mr. Sarmiento

Mr. Sarmiento voted Yes in the spirit of Asian solidarity and because the provision would not preclude the present or future government from pursuing claims over any territory.

By Mr. Suarez

In voting against the Article, Mr. Suarez explained that he does not want to waive the nation's historic right or legal titles over any territory and that he could not rely on assurances that are not integrated in the Constitution.

By Mr. Tadeo

Mr. Tadeo voted against the Article, stating that it would be more meaningful to retain the clause "historic right or legal title".

By Mr. Uka

Mr. Uka voted Yes on the ground that the Article does not preclude any future claim over other territories and that it clearly describes the extent of the country's territory.

By Mr. Villacorta

Mr. Villacorta stated that he was voting Yes after consulting specialists in international law and diplomacy who assured that the term "sovereign jurisdiction" would not preclude the Philippines from asserting sovereignty over other territories and that the term "sovereign" would serve as a reminder that a claimed territory is not an empty piece of land but inhabited by people whose right to self-determination reigns supreme over historic right or legal title.

RESULT OF VOTING

The result of the voting was as follows:

In favor:

Aquino Natividad

Azcuna Nieva

Bengzon Ople

Bennagen Quesada

Bernas Regalado

Rosario Braid De los Reyes

Foz Rodrigo

Garcia Sarmiento

Gascon Sumulong

Lerum Uka

Maambong Villacorta

Against:

Bacani Rama

De Castro Rigos

Concepcion Suarez

Davide Tadeo

Guingona Treñas

Padilla

Abstention:

Nolledo

Thereafter, the Chair announced that the result of the voting, on Third Reading, on Proposed Resolution No. 263 was 22 affirmative votes, 11 negative votes, and 1 abstention.

The Chair then declared the proposed Article lost on Third Reading for failure to meet the required majority vote of all the Members of the Constitutional Commission.

MOTION OF MR. BENGZON

At this juncture, Mr. Bengzon moved for the continuation of the voting, on Third Reading, in the next session in order to give the absent Members an opportunity to cast their votes.

POINT OF ORDER OF MR. DAVIDE

Mr. Davide objected to the motion for being out of order.

The Chair ruled that the Body was through with the voting on Third Reading with the announcement of the result thereof. However, the Chair stated that the remedy open would be a motion for reconsideration which the Body could take up in the next session.

MOTION OF MR. BENGZON

Mr. Bengzon then moved for the suspension of the rules to enable those Members who failed to vote to cast their vote the next day.

Mr. Guingona objected to the motion on the ground that it would establish a bad precedent.

Mr. Davide also registered his objection.

Thereupon, Mr. Bengzon manifested that he would file a motion for reconsideration in the next session.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's inquiry whether the result of the voting means that the New Constitution would be without an Article on National Territory, the Chair replied that for the present, there is no provision on National Territory in the Constitution.

MOTION OF MR. GUINGONA

Thereupon, Mr. Guingona moved that the Committee on Preamble, National Territory and Declaration of Principles submit another formulation of the Article on National Territory for presentation to the Body.

The Chair stated that Mr. Guingona's motion could be considered after the motion for reconsideration shall have been submitted to the Body.

INQUIRY OF MR. MAAMBONG

In reply to Mr. Maambong's query as to how many Members participated in the voting, the Chair stated that the result of the voting was 22 in favor, 11 against and 1 abstention or a total of 34 Members.

ADJOURNMENT SESSION

Thereafter, on motion of Mr. Rama, there being no objection, the Chair declared the session adjourned until two thirty in the afternoon of the following day.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO
Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on July 11, 1986

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