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Monday, August 11, 1986

OPENING OF SESSION

At 9:43 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Jose D. Calderon.

Everybody remained standing for the Prayer.

PRAYER

MR. CALDERON: Let us pray.

Almighty God, we are entering the final phase of our task to draft what will become the fundamental law of the Filipino people.

The last two months had been hectic but the days ahead will be even more demanding.

Even now, strenuous and sustained effort has taken its toll among those of us who are not in excellent health nor of robust physical attributes.

But, Almighty God, the few of us who had been stricken ill are, by Your Grace, holding on tenaciously to the job at hand, pushed on by a determination and a purpose single to the completion of this endeavor, together with our more physically able colleagues.

As our work intensifies, as the demands on our efforts grow heavier, give us, O Lord, the strength to carry on. Reenergize our bodies; give more light to our minds; put more love in our hearts; and grant us more understanding and sympathy for those views that contradict our own.

As crucial issues are submitted to a vote, fortify us, Almighty God, with humility in victory, with grace in defeat, and with the wisdom to understand that every vote cast in this Chamber is a vote of conscience intended to achieve the common weal and certainly not a partisan stand designed to defeat a foe, for in this Chamber, O Lord, there are no foes, only colleagues in the common endeavor to structure the foundation of this nation.

Guide us, Almighty God, in these, the final days, to make the Constitution we are drafting one that is acceptable to our people but, more importantly, one that is deserving of Your blessing and benediction. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present Nieva Absent

Aquino Present[*] Nollado Present

Azcuna Present Ople Present[*]

Bacani Present Padilla Present

Bengzon Present[*] Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present[*]

Brocka Absent Rigos Present

Calderon Present Rodrigo Present

Castro de Present[*] Romulo Present

Colayco Present Rosales Present

Concepcion Present[*] Sarmiento Present

Davide Present[*] Suarez Present

Foz Present Sumulong Present

Garcia Present[*] Tadeo Present[*]

Gascon Present Tan Present

Guingona Absent Tingson Present[*]

Jamir Present Treñas Present

Laurel Present[*] Uka Present

Lerum Present[*] Villacorta Present

Maambong Present[*] Villegas Present

Monsod Present[*]

The President is present.

The roll call shows 29 Members responded to the call.

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

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

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

APPROVAL OF JOURNAL

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

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from Mr. Teodoro Pascua of Konsiyensiya ng Febrero Siete (KONFES), 4 Malinis St., UP Village, Diliman, Quezon City, submitting its proposal for the retention of the text of Section 8, Article XV of the 1973 Constitution regarding religious instruction in public elementary and high schools.

(Communication No. 513 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Saturnino C. Aro of 12-A Camp Dangwa, La Trinidad, Benguet, requesting inclusion of provisions on social security to make small member-employers beneficiaries by way of benefit payments in times of sickness, disability, retirement and death.

(Communication No. 514 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from Mr. Jaime A. Tabang of 216 M.L. Quezon St., Magiliw, Mabalacat, Pampanga, seeking a constitutional provision that would, in effect, make the bar examinees with borderline marks become members of the bar provided they have proven to be competent in fields directly related to the legal profession.

(Communication No. 515 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from Mr. Jaime A. Tabang of 216 M.L. St., Magiliw, Mabalacat, Pampanga, saying that civilian employees of the AFP remain "casuals" in spite of their civil service eligibilities and length of service and suggesting the inclusion of provisions providing equal treatment of all government employees regardless of the agency hiring them.

(Communication No. 516 — Constitutional Commission of 1986)

To the Committee on Constitutional Commission and Agencies.

Letter from Mr. Jose C. de Venecia, Jr., President of the Petroleum Association of the Philippines, 1 Floor Basic Petroleum Bldg., Alvarado St., Legaspi Village, Makati, Metro Manila, containing the position of the association on the exploration and development of petroleum resources of the Philippines.

(Communication No. 517 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Twenty-seven letters from John Gerard R. de Dios, Edwin F. Sarmiento, Eric S. Javier, Anmiel P. Galvo, Joselito Ledesma, Terry A. Lafigura, Rosario Torres, William Intalco, Rojiel S. Lacanienta, Clifford E. Pesalbon, Joselito S. Agbayani, Romeo V. Paragas, Marlyn Sarmiento, Aurora R. Guiang, Francis G. Bais, Ramil T. Bruces, Ricky Paglicawan, Luis S. Salazar, Margarita R. Mangaliman, Victor Maricad, Rolando T. Nepomuceno, Jesus M. Pinlac, Marita Malpaya, Zenaida B. Viray, Reynaldo N. Regresado, Anselmo V. Contreras, and Ernesto C. Esteban, Jr. with their respective addresses, all seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 518 — Constitutional Commission of 1986)

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

Resolution No. 6 of the Sangguniang Panlalawigan of Pampanga, requesting the Commission to respect the six-year term given by the people to the incumbent President and Vice-President.

(Communication No. 519 — Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Communication from the Philippine Social Science Council, Inc., Don Mariano Marcos Avenue, UP Diliman, Quezon City, signed by its Chairman, Dr. Carolina G. Hernandez, submitting four recommendations, to wit: (1) federal form of government composed of 12 autonomous regions; (2) equal rights of women with men and protection of working women in relation to their maternal functions; (3) deletion of the second sentence in the Article on Bill of Rights, Section 1 (the right to life extends to the fertilized ovum); (4) addition of a ninth ray to the sun of the Philippine flag to represent the Muslim and cultural communities.

(Communication No. 520 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Wilfredo C. Asuncion of Batac, Ilocos Norte, proposing, among others, a presidential form of government with a bicameral legislature, a six-year term for the President with no reelection, creation of a Commission on Appointments, and a four-year tenure for the Chief of Staff of the Armed Forces.

(Communication No. 521 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Ricaredo G. Sodusta of Loreto, Agusan del Sur, transmitting Resolution No. 06, S.1986 of the Sangguniang Bayan of Loreto, requesting the Constitutional Commission to create a Ministry for Tribal Filipinos that will cover all cultural minority tribes of the country.

(Communication No. 522 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Imelda S. Dasalla of No. 117 Block 2, New Matina, Davao City, and 84 others urging the Constitutional Commission to draft a Constitution for a Federal Republic of Pilipinas.

(Communication No. 523 — Constitutional Commission of 1986)

To the Steering Committee.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: There is a request for a privilege speech for two minutes on the occasion of the birthday of former Senator Lorenzo Tañada. May I ask that Commissioner Villacorta be recognized.

THE-PRESIDENT: Commissioner Villacorta is recognized.

QUESTION OF PRIVILEGE OF COMMISSIONER VILLACORTA

MR. VILLACORTA: Madam President, as we are about to approve the Article on Social Justice, the significance of the conferment of the highest government award, the Legion of Honor, Rank of Commander, to former Senator Lorenzo Martinez Tañada, should not pass unnoticed by the Constitutional Commission.

Former Senator Tañada as we all know, is one of the greatest Filipinos of our time. Since the start of his public career, he has fought for the small people of our society. Always championing basic human rights and national sovereignty, he has battled the forces of tyranny and foreign domination.

Even as he has advanced to the age of 88, he has been unwavering in his social consciousness, his incorruptibility and his commitment to freedom and nationalism. Instead of stagnating in the premises and biases of his generation, he has always been attuned and responsive to the dynamic demands of changing times.

Senator Tañada has often said, "Life is too short, we have to do our best for our people before we are summoned by our Creator and are made to account for our actions in our lifetime." We are fortunate that in this Constitutional Commission, we can benefit from the parallel wisdom of his contemporaries in lawmaking: Senators Sumulong, Alonto, Rodrigo, Padilla and Rosales, and Speaker Laurel — statesmen of an era when the values of delicadeza and selflessness in public life prevailed.

In our work in this Commission, we have endeavored to provide for the prevention of tyranny's resurgence in our country. We have also striven to enshrine people's power through the institutionalization of sectoral representation and people's organizations, and have sought to protect and guarantee the rights of laborers, farmers, fishermen, women, youth, the middle class, the sick and the disabled in our Article on Social Justice. Soon we shall deliberate on the matter of giving local governments the importance that they deserve, and on articles that will set our people free from foreign economic, cultural and political encroachment. Let us draw our inspiration from the exemplary example of our great nationalist, Senator Lorenzo Tañada, who yesterday said that his only birthday wish is "to see our country truly liberated from foreign domination before I die."

Madam President, I would like, therefore, to exhort our colleagues in the Commission to support a resolution, that this Representation will submit, congratulating Senator Tañada for the highest state honor that he has just received.

Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I move that we take up for consideration Committee Report Nos. 21 and 25 on the Article on Local Governments, submitted by the Committee on Local Governments.

THE PRESIDENT: Is there any objection that we proceed to consider the reports of the Committee on Local Governments?

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Madam President, I thought we would proceed to finish the amendments to the report of the Committee on Social Justice before we take up Committee Report Nos. 21 and 25 because Commissioner Ople, who is one of the sponsors, has not yet arrived.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 9:59 a.m.

RESUMPTION OF SESSION

At 10:09 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

CONSIDERATION OF PROPOSED RESOLUTION NO. 534

(Article on Social Justice)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: Madam President, the Committee on Social Justice is now ready to entertain the motion for reconsideration. I ask that Commissioner Jamir be recognized.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Thank you, Madam President.

I move to reconsider the approval of the second sentence of Section 5, appearing on page 2 of the draft, to enable me to add the words: EXCEPT COMMERCIAL, INDUSTRIAL AND RESIDENTIAL after the phrase "all agricultural lands."

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

Commissioner Suarez is recognized.

MR. SUAREZ: Madam President, may we hear the proposed amendment again from the distinguished Gentleman?

MR. JAMIR: After the phrase "all agricultural lands," I move to insert the words: EXCEPT COMMERCIAL, INDUSTRIAL AND RESIDENTIAL.

THE PRESIDENT: In other words, before the clause "subject to such priorities."

MR. JAMIR: Yes, Madam President.

THE PRESIDENT: What does the Committee say?

MR. SUAREZ: Madam President, we realize the merit of the proposal, but this has been repeatedly stated in the explanation given by the members of the Committee, so we would rather that we leave this matter to the floor for appreciation.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Will the distinguished proponent yield to some clarificatory questions so we can vote intelligently?

MR. JAMIR: Willingly.

THE PRESIDENT: Please proceed.

MR. DAVIDE: Under the proposed Article on the National Economy and Patrimony, land should be classified into timber, mineral, national park, and agricultural. If this particular proposal is adopted, all lands may further, be classified into residential, commercial, agricultural and so on.

MR. JAMIR: The term "COMMERCIAL, INDUSTRIAL AND RESIDENTIAL LANDS" is merely part of the broader term "agricultural lands."

MR. DAVIDE: Consequently, Congress now may classify "all agricultural lands" as residential, commercial and so on, or the bigger portion of the agricultural land as commercial or residential, to defeat the purpose of the concept of agrarian land reform.

MR. JAMIR: No, Madam President. This is preceded by the word EXCEPT. That means to say that with regard to the broad term "agricultural lands," these are the only exceptions.

MR. DAVIDE: Yes. But Congress may now classify what are agricultural, residential and commercial lands, thus reducing the area or the coverage of agricultural lands and what may be available for land reform.

MR. JAMIR: I do not really think so.

MR. DAVIDE: We submit that it might dilute further the concept of land reform.

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

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Will the proponent entertain a few questions?

MR. JAMIR: Willingly.

FR. BERNAS: In proposing to exempt agricultural, commercial and residential lands, would that not affect the intent of the former Section 11, which is now Section 10, on urban land use? In the course of our deliberations on this section on urban land reform and housing, we deliberately used the word "reform" and not "use" so that it would involve not merely zoning. It was very clear that the intent was to make possible the expropriation of urban land, residential land and even commercial land for purposes of distribution and resale. If we exempt commercial and residential lands from distribution under Section 5, in effect, we negate the possibility of urban land reform.

MR. JAMIR: My purpose in introducing that amendment is merely to clarify that, under existing laws and our

jurisprudence, these three kinds of agricultural lands really form part of the agricultural lands but they are considered an exception to that broader term.

FR. BERNAS: But, precisely, the intention of the Article on Social Justice is to go beyond existing law. And now, the purpose of the Gentleman's amendment is to fossilize the existing law, and thereby render impossible the fulfillment of the goals of urban land reform.

MR. JAMIR: That was not the intention. In fact, if I remember correctly, during the interpellation, when I was attempting to insert the word "ARABLE" between the words "all" and "agriculture," the Committee stated that commercial, industrial and residential lands are not really included. I would like to clarify that.

FR. BERNAS: That, of course, is correct. But then subsequent to that we considered urban land reform. The proper consideration of commercial and residential lands should be perhaps under urban land reform and housing.

MR. JAMIR: It is far beyond my intention to limit the coverage of agrarian land reform.

FR. BERNAS: It may not be the intention, Madam President, but it is the effect.

MR. JAMIR: I really do not think so, because at any rate, our laws and jurisprudence already have instituted these as parts merely of agricultural lands.

FR. BERNAS: Madam President, it is still my contention that the introduction of that amendment will seriously impair, if not negate, the possibility of urban land reform and housing reform.

THE PRESIDENT: Is there any other comment?

MR. JAMIR: Madam President, I suggest that we submit it to a vote.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, this Commission has been castigated by various farmer groups for instituting a weak agrarian reform program. The Federation of Free Farmers and other nationwide peasant groups have issued statements criticizing this Commission for instituting a weak and flabby agrarian reform program. Madam President, now we are introducing another amendment to further weaken the agrarian reform. A few days ago, we instituted amendments that tend to weaken agrarian reform with provisions like "the State shall by law"; "subject to such priorities and reasonable retention limits as Congress may prescribe"; the proviso "taking into account ecological, developmental or equity consideration"; and "just compensation."

Madam President, to me this is another attempt to weaken agrarian reform. We will be increasing the sorrow and the sadness of our farmers, of our people, if we accept this amendment. With due respect to Commissioner Jamir, I object to the introduction of that amendment.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: The proposed amendment submitted by Commissioner Jamir has reference to Section 5 under agrarian land reform. The proposed amendment does not refer to Section 10 or 11 under Urban Land Use and Housing Program, so they are two distinct sections. For Commissioner Bernas to say that Commissioner Jamir's insertion in Section 5 will affect the provision on urban land use and housing is not exactly accurate because the proposed amendment is on Section 5 and not on Section 10 or 11. With regard to the provision that says "encourage and undertake the just distribution of all agricultural lands," I recall that I suggested the elimination of

the word "all" and Commissioner Jamir suggested to make it applicable to "ARABLE" agricultural lands. These proposals were unfortunately not approved. But definitely this subclassification of agricultural land to residential, commercial and industrial is not or should not be covered by agrarian land reform.

So I am in favor of the proposed amendment of Commissioner Jamir.

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: May I just inform the honorable Commission that under Article XIV, Section 10 of the 1973 Constitution, lands of the public domain are classified into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest and grazing lands, and such other classes as may be provided by law. Unless the intention of the Committee on the National Economy and Patrimony is to do away with this classification which I think is a good classification, then there should be no question about the amendment being proposed by Commissioner Jamir because it is so classified under the 1973 Constitution.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Thank you, Madam President.

Will the proponent yield to some questions?

MR. JAMIR: Willingly.

MS. AQUINO: Madam President, there is settled jurisprudence on the definition of "agricultural land" in the case of *Krivenco vs. the Register of Deeds* that would define agricultural land to include commercial, industrial and residential lands. My concern is in the absence of settled jurisprudence delimiting the parameters of what are commercial, industrial and residential lands which, in effect, would get in the way of the effective implementation of Sections 5 and 11.

For the enlightenment of the Committee, what does Commissioner Jamir intend to cover by reference to commercial, industrial and residential lands, if only to set the parameters of these concepts and classification; otherwise we would be, in effect, granting to Congress the plenary powers and statutory authority to set their own classification in the absence of guidance from jurisprudence and the law.

MR. JAMIR: I know that commercial, industrial and residential lands are included in the broad term "agricultural lands," but considering the particular character of these parcels of land, they should not be included in the land subject to agrarian reform. They should be allowed to remain commercial for commercial purposes, industrial for industrial purposes, and residential for residential purposes. That is my contention.

MR. VILLEGAS: Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, in answer to the question asked by Commissioner de los Reyes, it is the intent of the Committee on the National Economy and Patrimony to remove many of the categories that were mentioned in the 1973 Constitution. As I reported on another occasion, our recommendation in the committee report is to have only four classifications; namely mineral, timber, agricultural, and if the body approves it, the new classification of national parks. The background behind this recommendation is that in the last regime, the government was very free in reclassifying all types of agricultural lands into residential and resettlement, and we felt that we should limit that ability of Congress or the executive. I would really be hesitant to introduce that exception because there are a lot of rural areas right now where we can actually have industrial and residential and

commercial activities I think we should just depend on the wisdom of Congress to consider "developmental or equity consideration" so that we need not completely tie the hands of the government in considering some rural areas that can be subject to land reform even if some people may want to introduce land reform in specific rural sites.

I do object to the amendment. I think it will unduly limit the ability of the government to introduce land reform in specific rural sites.

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

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, I am a member of the Committee and I would like to state here what the intent of the Committee was when it proposed the urban land reform and housing and agrarian land reform. When we discussed this provision on urban land reform and housing, what we had in mind were the urban poor — people who have no houses, who are landless, who are not professional squatters, but are squatting on idle lands in the city, who have been there for many years, and people who have gotten into these idle lands, paying certain nominal amounts to the landowners. We were not thinking of the office spaces, for example, in Makati.

I appreciate the concern of Commissioner Jamir and I understand that what he has in mind and his apprehension is that this might cover lands which are definitely and publicly known to be office spaces or commercial spaces. However, that apprehension is already eased by the last portion of Section 5 which has given Congress the prerogative to prescribe certain terms, taking into account the ecological, developmental and equity considerations When it passes laws on agrarian reform and urban reform. And, therefore, in order not to complicate the matter further, considering that the apprehension of Commissioner Jamir is taken care of by the last portion of Section 5, and reading into the record the intent of the Committee when it proposed the section on urban land reform and housing to the effect that it was really the intention not to cover these office spaces and industrial sites but those lands which are in the cities and in the urban areas which are idle, which could properly be expropriated by the government for tenement housing, then we believe, Madam President, that there is no need for that amendment.

MR. RAMA: Madam President, there has been sufficient debate and discussion of the proposed amendment.

THE PRESIDENT: May we know from Commissioner Jamir if he insists on his amendment so that we can determine, if he will submit it to a vote.

MR. JAMIR: Yes, Madam President. I wish to submit it to a vote.

MR. SARMIENTO: Madam President, before we vote on the issue, may I just ask the Committee one clarificatory question.

THE PRESIDENT: Please proceed.

MR. SARMIENTO: A few seconds ago, Commissioner Bengzon stated that industrial sites are exempted from the scope of urban land reform. May I know if it is the intention of the Committee for the urban land reform to cover only idle lands in the city?

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended for a few minutes.

It was 10:30 a.m.

RESUMPTION OF SESSION

At 10:36 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Madam President, Commissioner Colayco would like to have the last say on the proposed amendment.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

According to Commissioner Bengzon, the Committee understands or agrees that areas devoted to commercial or industrial purposes are not to be included in the agrarian and urban reform. Am I correct?

MR. BENGZON: Yes. Areas which are already being used for commercial and industrial sites are not included in this definition because the intent of the Committee was to take care of the urban poor, the homeless. For example, if there is a specific area already devoted to industrial purposes and with factories all around, but within that cluster of factories there is a vacant land, it is up to Congress now to determine whether for the interest of the community that land should be expropriated wherein a tenement housing will be built for the workers around.

MR. COLAYCO: Thank you.

So, what is wrong with clarifying that point?

MR. BENGZON: Madam President, we will get into a lot of complications because there will be a million and one situations like that.

MR. COLAYCO: There will be more complications, if we do not clarify this point.

MR. BENGZON: Congress has the right to reclassify those lands as the circumstances would warrant. We cannot put all of those restrictions here.

MR. COLAYCO: There is just this problem — there may be a situation where an industrial or commercial area is not being used at the moment. This can be a big problem if Congress now declares such an area as residential or for urban housing.

MR. BENGZON: Then if Congress declares so, that means that it is for the best interest of everybody concerned, and it is not for us here to tell them what to do.

MR. COLAYCO: I have another question. There are many vacant residential areas around the elite enclaves, the subdivisions in Metro Manila. Take the case of the Ortigas property which is supposed to have been taken over by the Marcoses. There was a time when there were many squatters in that area. Does the Committee envision the expropriation of similar areas for housing for the poor?

MR. BENGZON: We do not envision any situation of that sort. We are leaving it precisely to Congress to determine whether or not, given that particular situation, it would enhance the value of that land or the interest of the squatters to stay in that particular area. That is why I am saying that we leave the discretion to Congress to decide what is best for the community as a whole, both for the people who would want to squat there and cut up that piece of land into small pieces for themselves, and for the people who are already living around that community. It is not up for us to dictate to them what to do nor to envision every single situation. That is why we

"are leaving the matter to Congress." We feel that if we do include all the proposals of Commissioner Jamir here, we are complicating the situation further. The more we define, the more we limit, and the more we tie the hands of Congress.

MR. COLAYCO: Thank you for the Gentleman's view.

MR. RAMA: Madam President, the body is ready to vote on the proposed amendment.

THE PRESIDENT: Does Commissioner Villegas want to seek recognition?

MR. VILLEGAS: I just wanted to add some information that would allay the fears expressed by Commissioner Colayco.

THE PRESIDENT: Please proceed.

MR. VILLEGAS: Let us take, for example, that very specific case of the Ortigas land. It would be highly unlikely for Congress to consider the area for urban land reform because the price of that land is more than P1,000 per square meter. And because we have a very specific statement about just compensation, it would not be wise for the government to choose a property right in the middle of the Ortigas area. I think we will have to put all these provisions in the context of what we also approved — just compensation. So, I do not think there is reason to be apprehensive, assuming that Congress really represents the people. We should have enough confidence in our government officials.

THE PRESIDENT: We are ready to vote now.

MR. RAMA: The Committee would like to state its position.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

In view of the many explanations given on record regarding the interpretation of the word "agricultural lands" in relation to the implementation to the urban land reform program of the government together with the agrarian reform, the Committee feels that there is no necessity for the inclusion of the three items mentioned by the proponent. However, if the Gentleman insists, we will leave it to the body to appreciate and evaluate the situation.

MR. JAMIR: Madam President, may I say one word?

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: In view of the statement of Commissioner Suarez, may I just ask him, if I withdraw this amendment, whether his explanation given during the interpellation the other time on my proposal to add the word "arable" is the Committee's stand on the matter? If the Gentleman would like to recall, he stated that the term "commercial, industrial and residential lands" is not included under agricultural lands.

MR. SUAREZ: Essentially, the characteristic of arability is the controlling factor, insofar as the classification of agrarian reform on agricultural lands is concerned.

MR. JAMIR: So, that explanation of the Gentleman will stand; in that event, Madam President, I withdraw the motion.

MR. SUAREZ: Thank you.

THE PRESIDENT: The proposed amendment is withdrawn.

MR. RAMA: Madam President, I ask that Commissioner Foz be recognized for another amendment.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Madam President, before I actually state my proposed amendment, I would like to make some statements in response to certain statements expressed in some quarters. I wish to respond to the statements expressing fears and misgivings over the consequences of our provision on urban land reform which we have approved as part of the Article on Social Justice and which the government is called upon to carry out when the new Constitution is approved. These fears and apprehensions, I submit, arise from a lack of appreciation of the proper role of an urban land reform program.

The objectives of an urban land program, as I have mentioned them before, are to liberate our human communities from blight, congestion and hazard, and to promote their development and modernization to bring about the optimum use of land as a rational resource for public welfare, rather than as a commodity of trade subject to price speculation and indiscriminate use; and to acquire lands necessary to prevent the speculative buying of land for public welfare; and to enlist the support of the private sector in responding to community requirements in the use and development of urban lands and in providing housing for the people. The foremost concern then is the problem of blighted, congested urban areas or communities. Our provision precisely states that it is a program of urban land reform and housing, aimed at making available affordable housing and basic services to the underprivileged and homeless citizens.

The fear has been expressed by small landowners or small property owners, who have two-door or more apartments being rented out to tenants, that the government would take over their property. This concern is not new because time and again, small apartment owners who, by the way, are numerous have been voicing the same fear but I say that there is no ground for such fear. The government will certainly be concerned with the big estates and properties in urban centers; and under well-developed jurisprudence, the State is to be limited to this type of land insofar as government expropriation of land is concerned.

If we have provided in the provision on agrarian reform an assurance to the small landowners that the State shall respect their rights in determining the retention limits of agricultural lands, should we not likewise provide even a short provision in the case of small urban landowners that their rights shall also be respected and protected by the State? These small landowners or property owners may be said to belong to the middle class of our urban centers. They are retirees, veterans, teachers, employees, who have used their lifetime savings or have borrowed from banks small loans to build houses or even small apartments, a portion of which they have rented out to some other people so that they can derive some income when they retire or even during their retirement.

Therefore, Madam President, I propose that we add to Section 11, which we have already approved, a new sentence to read as follows: THE STATE SHALL RESPECT THE RIGHTS OF SMALL PROPERTY OWNERS. This amendment is coauthored by Commissioners Monsod and Treñas. By the way, this has already been cleared with the Committee.

THE PRESIDENT: What does the Committee say?

MR. SUAREZ: Madam President, may we just clarify two points: When the Gentleman mentioned property owners, was he referring to owners of lots and houses or only to lots?

MR. FOZ: Both.

MR. SUAREZ: And would the Gentleman leave to Congress, as we did in applying the provisions on agrarian

reform, the determination of what would constitute a small property owner?

MR. FOZ: That is right.

MR. SUAREZ: Thank you.

The Committee accepts the proposed amendment, Madam President.

THE PRESIDENT: The Committee accepts.

MR. SUAREZ: Yes, Madam President.

MR. VILLEGAS: Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Could I just propose an amendment to the amendment. Since property is too general, could we introduce an adjective and say: "REAL ESTATE PROPERTY OWNERS"?

THE PRESIDENT: What does Commissioner Foz or the Committee say?

MR. FOZ: I think there is no difference. Actually, it is a little redundant to say "SMALL REAL ESTATE PROPERTY OWNERS" here.

MR. SUAREZ: Would Commissioner Villegas state the proposed amendment to the amendment?

MR. VILLEGAS: "THE STATE SHALL RESPECT THE RIGHTS OF SMALL REAL ESTATE PROPERTY OWNERS."

MR. SUAREZ: Would the word "PROPERTY" not be included in the words "REAL ESTATE"?

MR. VILLEGAS: No.

MR. SUAREZ: It is the other way around.

MR. VILLEGAS: Yes.

MR. SUAREZ: Thank you.

MR. MONSOD: This sentence is proposed to be included in the same section defining the rights of farmers to urban land reform and housing. So in that context, it would only refer to real property.

MR. VILLEGAS: I will not insist on the amendment.

THE PRESIDENT: Will the Gentleman now restate the proposed amendment so that we can proceed to vote.

MR. FOZ: If I may read the sentence: "THE STATE SHALL RESPECT THE RIGHTS OF SMALL PROPERTY OWNERS."

MR. SUAREZ: We reiterate the Committee accepts the proposed amendment.

THE PRESIDENT: Is there any objection to this proposed amendment which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: Madam President, I move that we take a vote on the entire Section 11.

THE PRESIDENT: Yes. Are we through with all the reservations? Have we taken up all the reserved amendments?

MR. SUAREZ: One more reservation, Madam President.

THE PRESIDENT: Can we take that up now?

MR. RAMA: We can take it up now. May I ask that Commissioner Bernas be recognized.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, I call the attention of the Commission to the third paragraph, page 38 of the Journal last Saturday. The amendment I am about to propose is in effect cosponsored by Commissioners Monsod, Garcia and also Commissioner Regalado who gave the last amendment to this provision last Saturday.

Before I state my amendment, let me just give the background of what I am about to propose. In the interpellation made by Commissioner Rodrigo last Saturday, it was made very clear that it was not the intention of this provision to in any way dilute or diminish the rights already guaranteed in the Bill of Rights, particularly Section 7 and Section 9, which guarantee the right of people to form associations and unions for purposes not contrary to law, and also the guarantee which says that no law shall be passed abridging the right of the people peaceably to assemble and petition the government for redress of grievances.

So the object of my proposal is precisely to rephrase this so that it will not be read as diminishing what we already have; and at the same time it will more clearly project what we hope to add in this provision.

My amendment has two parts. The first involves a splitting of the sentence into two, and then a rewording of both parts. I propose to delete the first four words "The State shall respect," and I shall begin the provision this way: THE RIGHT OF THE PEOPLE AND THEIR ORGANIZATIONS TO EFFECTIVE AND REASONABLE PARTICIPATION AT ALL LEVELS OF SOCIAL, POLITICAL AND ECONOMIC DECISION-MAKING SHALL NOT BE ABRIDGED. And then a new sentence will follow: THE STATE SHALL FACILITATE THE CREATION OF ADEQUATE CONSULTATION MECHANISMS.

After consultation with the Committee and also with Commissioner Regalado who sponsored the last amendment, we agreed that this formulation reflects the intention of everyone.

MR. GASCON: Commissioner Bernas, is it not "THE STATE SHALL, BY LAW, FACILITATE"?

FR. BERNAS: "THE STATE SHALL, BY LAW, FACILITATE THE CREATION OF ADEQUATE CONSULTATION MECHANISMS."

We would like to avoid the use of the words "make possible" because it gives the impression that these consultation mechanisms are not possible unless the State takes action by law. As a matter of fact, the consultation mechanisms are already in existence, and the role we are giving to the State is mere facilitation, not necessarily creation of these consultation mechanisms.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Since the proposed amendment would be reflective of the thinking of the Committee the Committee decides to accept the proposals, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like to have some clarifications.

THE PRESIDENT: Please proceed.

MR. DAVIDE: The emphasis of my question will be on "THEIR ORGANIZATIONS" — "THEIR ORGANIZATIONS" would refer specifically to independent people's organizations as defined in the preceding sentence.

FR. BERNAS: Yes.

MR. DAVIDE: Would the Gentleman agree to using the word ESTABLISHMENT instead of "CREATION"?

FR. BERNAS: That is with respect to the second sentence.

MR. DAVIDE: Yes, to the second sentence.

FR. BERNAS: The sense is the same; I would have difficulty with that.

MR. DAVIDE: Thank you.

FR. BERNAS: But for me the more important word is FACILITATE.

MR. SUAREZ: Is Commissioner Bernas accepting the amendment?

MR. MONSOD: May I just ask a question of the proponent, Madam President.

Would it change the sense of the sentence if we simply say, "THE STATE SHALL FACILITATE ADEQUATE CONSULTATION MECHANISMS" without having to say "CREATION OR ESTABLISHMENT"?

FR. BERNAS: First of all, the phrase is "THE STATE SHALL, BY LAW."

MR. MONSOD: "THE STATE SHALL, BY LAW, FACILITATE ADEQUATE CONSULTATION MECHANISMS." Do we need the word "CREATION" there?

FR. BERNAS: There are really two steps. First, we have the creation of the consultation mechanisms, and then the facilitation of the functioning of those mechanisms.

THE PRESIDENT: Is this a new section or substitution for a section?

FR. BERNAS: A substitution for Section 20, Madam President. So, the first sentence will read: THE RIGHT OF THE PEOPLE AND THEIR ORGANIZATIONS TO EFFECTIVE AND REASONABLE PARTICIPATION AT ALL LEVELS OF SOCIAL, POLITICAL AND ECONOMIC DECISION-MAKING SHALL NOT BE ABRIDGED.

Could we take action on that?

THE PRESIDENT: There are two sentences.

FR. BERNAS: There is a second sentence, Madam President.

THE PRESIDENT: Is this clear to all the Commissioners?

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you.

I am for this amendment which I think better reflects the intent of the entire Commission, if I may say so. But for the purpose of the records, we should clarify the meaning of the word "PEOPLE." Do we refer to the people as the

source of sovereignty from which all sovereignty emanates?

FR. BERNAS: Precisely, yes.

MR. OPLE: I think in the usual construction, the people in this case constitute themselves into an electorate for the purpose of electing a government to pass policy questions through their representatives in, let us say, the legislature. But in this case we refer to people and their organizations. Is there no distinction at all between the "people" contemplated in the earlier definition that I gave from which all sovereignty emanates and the people here as, let us say, the "people" as a great public?

FR. BERNAS: The people are larger than just merely the electorate because the electorate consists of those who are qualified to vote. The broader word PEOPLE would include even those who are under age, and the guarantee in the Bill of Rights covers all people.

MR. OPLE: We are speaking, therefore, of people in the more generic sense. Perhaps, the classic formulation of that was what Walter Lippman put forth as a "national society" consisting of generations present, past and future, as well.

FR. BERNAS: Yes; and that adequately defines the section on the declaration of principles when we speak of sovereignty residing in the people.

MR. OPLE: In empowering people's organizations to participate in all levels of decision-making, this presumably rises vertically from, let us say, the barangay level to the regional level and to the national level.

FR. BERNAS: We are not putting any limitation.

MR. OPLE: I just wanted to make this clarification.

Thank you very much, Madam President.

THE PRESIDENT: Are we now ready to vote?

MR. ROMULO: Madam President, before we vote, I would like to ask the Committee a question.

THE PRESIDENT: Please proceed.

MR. ROMULO: Since this now has been reformulated, I would like to ask, in the event the people's organization is not consulted, what the effect of that nonconsultation with regard to either the decision made by the bureaucrats or the law passed by Congress would be.

MR. GARCIA: The Committee feels that in any decision-making that will be relevant, the thoughts, the aspirations and the participation of people are essential for the decision-making to be in the right direction.

MR. ROMULO: Granted, but suppose they are not consulted?

MR. GARCIA: Yes, we always say that consultation mechanisms be reasonable because one cannot consult every single individual on a specific question. But the effort of decision-makers or of government leaders should be to consult the people, whenever it is possible.

MR. ROMULO: Yes. Assuming that they do not, I just want to know what is the effect of nonconsultation.

MR. GARCIA: Then they must suffer the consequences. When the people later on believe that the decisions made without proper consultation are contrary to their interests, then they may be voted out of office.

MR. ROMULO: So, it does not nullify the law or it does not make the decision nonenforceable.

MR. GARCIA: Exactly. There are many levels on the arenas of participation. It can be electoral. It can be, as in the past when we saw street manifestations, in the form of demonstrations. And right now, in many parts of the country, especially during the public hearings, we hold dialogues with the people. In fact, such has been instituted in the different ministries as I informed you the other time.

MR. ROMULO: My second question is, since we speak of the different levels of participation, not only political but social, economic and so on, to what extent does this apply in the ladder of decision-making?

MR. GARCIA: The desired objective is for people on the local level, provincial level, regional level and national level to be consulted so that there will be an effective mechanism, so that we can check whether the decisions made on all levels are relevant and responsive to people's needs.

MR. ROMULO: So, if we take an agency of the government, let us say a ministry on the national level, do we require that the people be consulted from the bottom to top of that ladder of decision-making?

MR. GARCIA: There are, for example, national organizations. But I would like to give a very concrete example. The Ministry of Health, for example, conducted a consultation with different national organizations composed of health workers, consumers, doctors, and so on, on the national level. And later on, for the decisions to be implemented, the Ministry discussed further and refined these. There were consultations in the local and municipal levels. So there are many levels. The level may be vertical on that score — geographical or horizontal when it involves different sectors of society, multisectoral or sectoral.

MR. MONSOD: Madam President, this section does not say that any group who claims to be a people's organization must be consulted for a law or decision to be valid or implemented. As I think Commissioner Garcia said, there is the criteria of practicability as well. Furthermore, in our Constitution, we also gave the people the right of initiative and referendum.

MR. ROMULO: Precisely.

MR. MONSOD: So, this is another way by which they can express their disapproval of any decision or law.

MR. ROMULO: So, what the Gentleman is saying is that this is a desired objective and if it is not fulfilled then the people must go to those mechanisms provided in our Constitution.

MR. MONSOD: Yes, the operative phrase is "WITHIN THE DEMOCRATIC FRAMEWORK."

MR. ROMULO: Thank you.

MR. RODRIGO: Madam President, may I ask a few questions?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: The phrase "WITHIN THE DEMOCRATIC FRAMEWORK" is a little too general. In our Declaration of Principles, we state that our government is a republican government, which means a representative government wherein sovereignty resides in the people; but then the people elect their representatives to the legislature, to the executive department, and these representatives are the ones who perform the functions of government. We would like the people to have some reserve powers as was stated by Commissioner Monsod. We are providing for initiative, for referendum, even for recall. And now, we are providing in this proposed section another direct participation of the people. What is the meaning of this "participation." It seems that this "participation" should not be initiated by the government, but by the people themselves or by organizations. If the organizations want to participate, they should not wait for the government, let us say, for the legislature, to invite them or to consult them.

MR. GARCIA: We agree.

MR. RODRIGO: So, the legislative department does not have the duty to call them and say, "please come, we want to consult you." If the people do not go there and express their views . . .

MR. GARCIA: Precisely, when we were explaining the role and rights of people's organizations, we are saying that it will be the people, their organizations, which are involved. They should not see their participation in government stopping when they cast their vote; it goes beyond electoral politics. The only thing we are asking for in this section is to facilitate a consultation mechanism so that there is a more recognized effort, a more visible and viable effort, so that this consultation mechanism is institutionalized.

MR. RODRIGO: So, it is very, very clear that we do not want to depart from a republican form of government, which means a representative form of government. We want more people participation and the participation should come from the people.

MR. GARCIA: Exactly. In fact, it strengthens the democratic exercise.

MR. RODRIGO: Thank you.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I would like to strengthen the position of Commissioner Garcia and Commissioner Monsod with respect to the framework within which people's organizations participate. In addition to the democratic framework, we are saying that it is in the pursuit of social justice. That is why we were insistent on the original formulation that the provision on people's organizations should start with the introduction, "In the pursuit of Social Justice within the democratic framework," so that we get out of the framework of party politics. It is not just within the framework of party politics that people's organizations can participate. We have had a number of experiences where people's organizations have already been participating at various levels. A concrete example would be the construction of huge infrastructure projects like dams. It has been the case that some form of consultation takes place but in the final implementation of these programs, the consultations are not conducted. We are saying that the people should be able to initiate from the lowest, as it were, up to the highest level, if necessary, so their voices will be heard effectively.

Again based on our experiences, in a number of cases, there is lack of adequate information. Information is never provided for the people on which to base their judgment on these infrastructure projects. We are also saying therefore, that given this framework, social justice and the democratic values could be pursued, people's participation could be more effective, and the role of government here would be to facilitate that form of consultation outside of party politics.

MR. RAMA: Madam President, Commissioner Bernas would like to have his last say on this.

FR. BERNAS: No, I was asking for a vote. But if the Chair wishes, I can restate the amendment.

THE PRESIDENT: Are we ready to vote?

MR. RAMA: The body is ready to vote.

THE PRESIDENT: Will the Committee please read the section now?

MR. SUAREZ: We yield to Commissioner Bernas, Madam President.

FR. BERNAS: The section will read: "THE RIGHT OF THE PEOPLE AND THEIR ORGANIZATIONS TO

EFFECTIVE AND REASONABLE PARTICIPATION AT ALL LEVELS OF SOCIAL, POLITICAL AND ECONOMIC DECISION-MAKING SHALL NOT BE ABRIDGED. THE STATE SHALL, BY LAW, FACILITATE THE ESTABLISHMENT OF ADEQUATE CONSULTATION MECHANISMS."

VOTING

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

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

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

MR. RAMA: Madam President, I move that we vote on the whole Article on Social Justice, as suggested by one of the committee members.

THE PRESIDENT: Mr. Floor Leader, have all those reserved amendments been submitted already?

MR. RAMA: Yes, Madam President. There are no more reserved amendments.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May we request that we first distribute to the Commissioners a clean copy of the Article before we vote on Second Reading?

SUSPENSION OF SESSION

THE PRESIDENT: So, we will vote on it later as soon as we have a clean copy of the entire Article on Social Justice with all the amendments that have been approved.

Meanwhile, the Chair suspends the session for a few minutes.

It was 11:15 a.m.

RESUMPTION OF SESSION

At 11:50 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA: I move that we suspend the session until two o'clock this afternoon to listen to the sponsorship of the Committee on Local Governments.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the session is suspended until two o'clock in the afternoon.

It was 11:51 a.m.

RESUMPTION OF SESSION

At 2:16 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NOS. 470 AND 511
(Article on Local Governments and Additional Provisions Thereto)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: I move that we consider Committee Report Nos. 21 and 25 on Proposed Resolution Nos. 470 and 511 as reported out by the Committee on Local Governments.

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

Consideration of Proposed Resolution Nos. 470 and 511 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolutions without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 470, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON
LOCAL GOVERNMENTS,

and Proposed Resolution No. 511, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION ADDITIONAL PROVISIONS IN
THE ARTICLE ON LOCAL GOVERNMENTS.

(The following is the whole text of the proposed resolutions per C.R. Nos. 21 and 25.)

COMMITTEE REPORT NO. 21

The Committee on Local Governments to which were referred Proposed Resolution No. 182, introduced by Honorable Tingson, entitled:

RESOLUTION PROVIDING FOR A CONSTITUTIONAL PROVISION ON LOCAL GOVERNMENTS,

Proposed Resolution No. 329, introduced by Honorable Tingson entitled:

RESOLUTION GRANTING AUTHORITY TO THE BARANGAYS TO RETAIN A PORTION OF TAXES
AND OTHER REVENUES FOR INFRASTRUCTURE PURPOSES,

Proposed Resolution No. 361, introduced by Honorable Treñas, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION A NEW PROVISION
EMPOWERING LOCAL GOVERNMENTS TO LEVY AND COLLECT TAXES UNIQUE, DISTINCT
AND EXCLUSIVE TO THEM AND TO SPEND THE REVENUES RAISED THEREFROM IN ORDER TO
MAKE LOCAL AUTONOMY REALLY MEANINGFUL AND EFFECTIVE,

has considered the same and has the honor to report them back to the Constitutional Commission of 1986 with the recommendation that attached Proposed Resolution No. 470, prepared by the Committee, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON
LOCAL GOVERNMENTS,

be approved in substitution of Proposed Resolution Nos. 182, 329 and 361 with Honorable Nollado, Calderon, Tingson, Rosales, Alonto, de Castro, Bennagen, Rigos, Regalado, Jamir and Ople as authors.

Respectfully submitted:

(Sgd.) Jose N. Nollado

Chairman

Committee on Local Governments

PROPOSED RESOLUTION NO. 470

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON
LOCAL GOVERNMENTS,

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled, to incorporate the following Article on Local Governments:

ARTICLE ____

LOCAL GOVERNMENTS

SECTION 1. The provinces, cities, municipalities, barrios and the autonomous regions are the territorial and political subdivisions of the Republic of the Philippines.

SECTION 2. Legislative bodies of local governments shall have sectoral representation as may be prescribed by law.

SECTION 3. No autonomous region, province, city, municipality, or barrio may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with criteria established by law and subject to approval by a majority of the votes cast in a plebiscite called for the purpose in the unit or units directly affected.

SECTION 4. The President of the Philippines shall exercise general supervision over local governments to ensure that laws are faithfully executed.

SECTION 5. Local government units may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them.

SECTION 6. Each government unit shall have the power to create its own sources of revenue and to levy taxes, fees and charges subject to such guidelines as may be fixed by law.

SECTION 7. Local governments shall have the power to levy and collect charges or contributions unique, distinct and exclusive to them.

SECTION 8. Local taxes shall belong exclusively to local governments and they shall likewise be entitled to share in the proceeds of the exploitation and development of the national wealth within their respective areas. The share of local governments in the national taxes shall be released to them automatically.

COMMITTEE REPORT NO. 25

The Committee on Local Governments to which were referred Proposed Resolution No. 15, introduced by Honorable de los Reyes, Jr. and Maambong, entitled:

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

Proposed Resolution No. 17, introduced by Honorable Azcuna, entitled:

RESOLUTION TO PROVIDE FOR REGIONAL GOVERNMENTS,

Proposed Resolution No. 138, introduced by Honorable Nolleto, entitled:

RESOLUTION TO INSERT IN THE NEW CONSTITUTION PROVISIONS ON MEANINGFUL AND AUTHENTIC DECENTRALIZATION OF LOCAL GOVERNMENTS BY ADOPTING WITH MODIFICATIONS THE PROPOSED PROVISIONS BY THE UP LAW CONSTITUTION PROJECT,

Proposed Resolution No. 176, introduced by Honorable Bennagen and Rosario Braid, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION REQUIRING THE STATE TO ESTABLISH A GENUINE AUTONOMOUS GOVERNMENT IN THE CORDILLERA REGION WITHIN A DEMOCRATIC AND SOVEREIGN FILIPINO NATION,

Proposed Resolution No. 178, introduced by Honorable Rosario Braid, entitled:

RESOLUTION DECLARING THE AUTONOMY OF REGIONAL AND LOCAL GOVERNMENT UNITS AS THE BASIC FRAMEWORK OF THE POLITICAL STRUCTURE OF THE STATE,

Proposed Resolution No. 247, introduced by Honorable Maambong, Natividad, de los Reyes and Ople, entitled:

RESOLUTION GRANTING FULL AUTONOMY TO LOCAL GOVERNMENTS,

Proposed Resolution No. 394, introduced by Honorable Sarmiento entitled:

RESOLUTION INCORPORATING IN THE NEW CONSTITUTION AN ARTICLE RECOGNIZING AND DEFINING THE RIGHTS OF POLITICAL SUBDIVISIONS TO LOCAL SELF-GOVERNMENT,

Proposed Resolution No. 409, introduced by Honorable Ople, entitled:

RESOLUTION CREATING AUTONOMOUS REGIONS FOR THE MUSLIMS OF MINDANAO AND THE PEOPLE OF THE CORDILLERA HIGHLANDS AND PROVIDING FOR OTHER AREAS OF AUTONOMY WITHIN LARGER POLITICAL SUBDIVISIONS,

Proposed Resolution No. 414, introduced by Honorable Rama, entitled:

RESOLUTION TO RESTORE THE PRE-MARTIAL LAW POLICY OF ALLOWING VOTERS IN
HIGHLY URBANIZED CITIES TO VOTE FOR PROVINCIAL OFFICIALS,

has considered the same and has the honor to report them back to the Constitutional Commission of 1986 with the recommendation that attached Proposed Resolution No. 511, prepared by the Committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION ADDITIONAL PROVISIONS IN
THE ARTICLE ON LOCAL GOVERNMENTS,

be approved in substitution of Proposed Resolution Nos. 15, 17, 138, 176, 178, 247, 394, 409 and 414 with Honorable Nollado, Calderon, Tingson, Rosales, Alonto, de Castro, Bennagen, Rigos, Regalado, Jamir, Ople, de los Reyes, Jr., Maambong, Azcuna, Rosario Braid, Natividad, Sarmiento and Rama as authors thereof.

Respectfully submitted:

(Sgd.) Jose N. Nollado

Chairman

Committee on Local Governments

PROPOSED RESOLUTION NO. 511

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION ADDITIONAL PROVISIONS IN
THE ARTICLE ON LOCAL GOVERNMENTS

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled, to incorporate the following sections in the Article on Local Governments, in addition to those proposed in Resolution No. 470 (Committee Report No. 21):

ARTICLE _____

LOCAL GOVERNMENTS

SECTION 9. The legislature shall create autonomous regions consisting of provinces and cities with common historical, geographic, cultural, linguistic, ethnic, communal, economic or other characteristics within the framework of and respecting the national sovereignty and territorial integrity of the Republic of the Philippines.

SECTION 10. The legislature shall enact an Organic Act for the autonomous region in consultation with elective officials of the provinces and cities within the region. This Organic Act shall define the basic structure of government for the autonomous region consisting of the regional executive department and regional legislative assembly both of which shall be elective and representative of the constituent political units. The Organic Act may likewise provide for a judicial system consisting of Courts of personal law jurisdiction within the autonomous region consistent with the provisions of this Constitution on Judicial Power.

SECTION 11. The President of the Philippines shall exercise general supervision over autonomous regions to ensure that laws are faithfully executed.

SECTION 12. Within its territorial jurisdiction, the autonomous region shall have authority over the following:

(1)

Administrative organization;

(2)

Regional taxation as provided for by law;

(3)

Regional urban and rural planning and development;

(4)

Regional economic, social and cultural development subject as to economic development to policies laid down by the National Economic Development Authority,

(5)

Establishment, maintenance and administration of schools in the autonomous region;

(6)

Promotion and regulation of tourism within the region;

(7)

Establishment, operation and maintenance of regional health, welfare and other social services;

(8)

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

(9)

Preservation of customs and traditions and culture indigenous to the autonomous region;

(10)

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

SECTION 13. Without prejudice to the above provisions, and except in areas of legislation exclusively belonging to the national government such as foreign relations, the national defense customs, tariff, post and telecommunications, the autonomous regions shall, by its regional assemblies, be authorized to legislate on all other matters which concern the local administration of such autonomous regions.

SECTION 14. The maintenance of peace and order within the region shall remain the responsibility of the local chief executive of each constituent unit who shall exercise suspension over local police forces within the region. The defense of the region shall be the responsibility of the national police or army. When circumstances so warrant, the regional government may establish its own special forces subject to supervision by the national armed forces and under such provisions as the law may provide. Such special forces shall be under the command

of the President of the Philippines.

SECTION 15. All powers, functions, and responsibilities granted by this Constitution or by law to the autonomous regions are vested in the National Government.

SECTION 16. The first legislature under this constitution shall, within one year from election of its Members, pass the Organic Acts for the autonomous regions of Mindanao and the Cordillera. The said legislature shall, within a period of not more than six (6) months after the organization thereof, immediately define the territorial jurisdiction of autonomous regions that may be granted Organic Acts.

MR. NOLLEDO: Madam President.

THE PRESIDENT: The Committee Chairman, Commissioner Nolleto, is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER NOLLEDO

MR. NOLLEDO: Before I proceed to deliver my brief sponsorship remarks, I would like to state here that our Committee made two reports. Committee Report No. 21 covers, among others, the kinds of local government units, their taxing powers and the provision on coordination of different political units for their common benefits; while Committee Report No. 25 contains the provisions on autonomous regions. After my brief remarks, Madam President, the other members of the Committee, namely, Commissioner Alonto and Bennagen, will also give their own remarks to be concluded by Commissioner Ople.

Before I proceed further, I would like to express the Committee's most profound gratitude to the governors and city mayors of the League of Governors and City Mayors whom I met at Quezon City and with whom I had a two-hour dialogue. We would like to express our gratitude to Mr. Rene Santiago of the Philippine Institute of Environmental Planners, Mr. Michael Mastura, the Philippine Social Science Council, the Office of Muslim Affairs and Cultural Communities, especially Minister Candu Muarip and Atty. Fausto Lingating.

Madam President, the cry for meaningful, effective and forceful autonomy has been loud and clear all over the country. That cry will no longer be a voice in the wilderness. Let this 1986 Constitutional Commission give a bold and unequivocal answer to that cry. The report of the Committee on Local Governments is an indictment against the status quo of a unitary system that, to my mind, has ineluctably tied the hands of progress in our country. It is claimed, Madam President, that our linguistic and ethnic diversities are weaknesses that can be strengthened by the unitary system; but I say our varying regional characteristics are factors to capitalize on to attain national strength through decentralization.

As stated by Mr. Rene Santiago of the Philippine Institute of Environmental Planners, who appeared several times before our Committee, a structure of societal organization must adopt to the people and not the people to a preconceived model of organization. He stated:

Filipinos are said to be highly individualistic, fractious, ungovernable, and heir to numerous persuasions. A pluralist society like ours would behave incongruously under the unitary setup as many social scientists have observed to the point of schizophrenia. It should be at home in a "federalized environment."

Decentralization gives hope to the poor. It disperses political power and responsibility, just as wealth must be equitably diffused. As Somacher, an economist, said: "Centralization is mainly an idea of order while decentralization, one of freedom." As Rene Santiago observed, centralization emphasizes the maintenance of status quo for society to sustain itself, while decentralization promotes entrepreneurship and innovation.

Our unitary structure, indeed, gravitates toward order that progress — national and local — becomes a casualty. Because of our enormous and hardheaded adherence to the unitary system foisted upon us by the colonial powers in a span of several centuries, Filipinos have found the idea of dictatorship appealing. That is why we always hear, and we seem to believe, that we Filipinos respond better to a strong leader and we find ourselves wittingly rammed through a situation where our rights are despicably trampled upon and where freedom becomes illusory and our dreams remain empty and unfulfilled. Thus, despite our vast natural resources and our great intellectual endowments, the Philippines has lagged behind her Asian neighbors.

In our report, we have widened the taxing powers of local governments. Thus, under our report, they can impose taxes, fees and charges, with right of retention and disbursements without undue interference from the national government. They shall likewise be entitled to share in the proceeds of exploitation and development of the national wealth within their respective areas. We also provided in the report that the share of local governments in the national taxes be released to them automatically. Our Committee did not adopt any provision authorizing the establishment of a metropolitan government because we wanted to avoid overlapping of functions. Moreover, putting together highly urbanized cities infringes upon the principles of local autonomy and decentralization. I, for one, believe that the Metro Manila Commission, created under P.D. No. 824, was truly a self-centered creation of the deposed dictator Ferdinand Marcos who wanted to consolidate political power over areas within Metro Manila as a gift to his wife and inspired by the historical imperative that the fall of the capital region will mean the end of their imperial rule. The geopolitical area of Metro Manila, however, may be maintained under a coordinating agency as authorized by the provision of our committee report that local government units may coordinate and consolidate their efforts and services for purposes beneficial to them.

Madam President, for the first time in the Philippine Constitution, in favorable reaction to the needs of the times and in recognition of the realities of Philippine situation, we are mandating the legislature to create autonomous regions within the framework of, and respecting the, national sovereignty and territorial integrity of the Republic of the Philippines.

Our Committee was torn between the question of setting a fully federal form of government and the question of merely establishing autonomous regions. We decided to make our provisions flexible in the sense that while we are mandating the creation of autonomous regions, particularly of Muslim Mindanao and the Cordilleras, we are opening an avenue towards full federalization of the Republic of the Philippines by way of creating several autonomous regions should Congress decide to do so in the future. Commissioners Alonto, Bennagen and Ople will explain further the need to set up autonomous regions.

Madam President, the challenge of this generation is brought forth before this august body. I fervently hope and pray that this Commission will prove equal to the challenge.

Thank you very much.

Madam President, may I request that Commissioner Alonto be recognized.

THE PRESIDENT: Commissioner Alonto is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER ALONTO

MR. ALONTO: Madam President, there is nothing more that I could add to the brilliant exposition of the distinguished Chairman of our Committee. I only want to add some historical experience I encountered when I had the privilege of being honored as one of those that have contributed to nation-building.

Madam President, the idea of a regional development plan started in Congress in the year 1954. It was in that year

that the members of Congress of which I was a humble member started to promote the idea of a regional economic development in this country in the course of our nation-building. That experiment of Congress developed the idea that a regional economic development of our country is much more effective than a centralized idea coming from the central government.

It was in that period when the establishment of different development authorities, starting with the Mindanao Development Authority, was passed and made into law by Congress. This also started the idea of presenting before the nation builders of this country that idea of the sociopolitical development of our country based upon the concept of regional authority or regional concept. Such concept started the idea that a federal form of government would be more acceptable in our country, taking into account the geographical situation, the composition of the society, and the historical background of the Filipino society.

Based on a paper I read before one of the seminars organized before the start of the 1971 Constitutional Convention entitled *The Political Problems of the Cultural Minorities*, Mao's effective way of solving the problem of uniting and consolidating the multifarious sectors of our society would be some sort of a federal form of government. In this document, I stated the following:

I can surmise this early that the strongest single factor that prompted the call for this charter revision is the sense of urgency felt by the different sectors that comprise the society to find a solution to the state of disintegration taking place in our midst.

It is then a must that in re-framing the same law, it would be the highest sense of patriotism for every member privileged to participate to analyze all the basic problems that confront our society, not the least important of which is the problem of Philippine unity. Together, let us reconstruct our political thoughts in order to reconstitute the same to conform to the basic philosophy of all the different elements that make up our society. Let us not hesitate even to reconstitute our governmental structure if necessary, to make it conform to the basic ideals of the different groups composing our society. Let us abandon the "straitjacket" to which we were plunged by our erstwhile masters as a condition precedent to the grant of a political freedom and which became the basic cause of our failure to imbue the society with the desirable sense of oneness and common destiny. For, unless we can imbue our people with a sense of oneness and common destiny, there seems to be no possible avenue of containing the process of disintegration that is going on in our very midst involving not only the cultural minorities but the whole fabric of our society.

I daresay that if to achieve unity, it is necessary to divide the country into several autonomous states bound together by a common goal and sense of oneness, we should not hesitate to do so. If unity cannot be achieved in a strictly unitary system as experience has taught us, then by all means let us revert to the only option left open for us — *UNITY IN DIVERSITY* — which seems to be the goal fixed for us by Divine Wisdom when our ancestors, belonging to a common racial strain but speaking different tongues, ventured through uncharted seas guided by the same Divine Providence to these different islands separated by natural barriers yet belonging to the same geographical region. For the sake of the hundreds of thousands, perhaps millions, of precious lives of our kin and kin that were sacrificed in the fields of battles to defend their newfound paradise, for us, their progeny, let us forge that unity of the anvil of necessity, perchance God Almighty, whose Providence controls the destiny of man and nation, grants that we can preserve these beautiful Isles for the generations yet to come.

In other words, Madam President, my very rationale or standing on the principle that we must take into account and into consideration the multifarious sectors of our society, the multiplicity of ideology, the multiplicity of principles in our society to be able to structure our government is for each sector of the society to make a basis of their cooperation in nation-building the ideals that they preciously consider for themselves.

This is why in the different proposals to this Constitutional Commission, I am most appreciative of those

proposals that will at least give autonomous freedom to the different sections of, if not all over, the country; but at least to start with, with those that in the course of our nation-building have shown some disparate and unrefusing and a highly unitarian centralized authority in this country.

I refer, Madam President, to the Muslims of Mindanao and to some of our brothers in Northern Luzon who adhere to the principle that in order to have real freedom, real justice and real democracy, each section of our society must be given the chance and freedom to develop the ideals they prize so much in life.

Madam President, I would like to lengthen my remarks in support of the remarks of our distinguished Chairman. However, I would just submit as part of the Record some documents which are very pertinent to the discussion we are now about to do. One of these is a document entitled Position Paper No. 2, which discusses the political problems of the cultural minorities in this country.[*]

Another document is on the need for a nation community which was the essence of a speech that the humble Representation delivered before the 1971 Constitutional Convention.[*]

Another document I would like to submit as part of the Record of this Constitutional Commission and as part of my remarks is a document entitled Structure of Government by Rev. Francisco Araneta, former President of the Ateneo de Manila.[*] This was submitted before the 1971 Constitutional Convention, proposing a federal form of government for the country.

The last document I would like to present is a speech of a divine — some of the last pronouncements of the late Senator Benigno Aquino.[*] In that document, he proposed a solution to the very perplexing problem caused by the Muslims in this country which resulted in the conclusion of the Tripoli Agreement of 1976 by President Marcos and the Moro National Liberation Front. This document clearly and articulately states that the solution to the problem of the Muslims in this country is spelled in the implementation of the Tripoli Agreement, and suggests means and ways by which that Tripoli Agreement would be implemented by the government. These, I submit to this body, as part of my short remarks and as part of the Record of this Constitutional Commission.

Thank you, Madam President, for this opportunity for delivering my short remarks. I hope that the report of this Committee would be acceptable to the Members of this Constitutional Commission as a basic solution to our problem of establishing real unity in Philippine society.

MR. NOLLEDO: I thank Senator Alonto.

THE PRESIDENT: Let those documents referred to by Commissioner Alonto be made part of the proceedings.

MR. ABUBAKAR: Madam President.

THE PRESIDENT: Does Commissioner Abubakar desire to be recognized?

MR. ABUBAKAR: Yes, because I would like to strengthen the argument and the observation of both speakers on local autonomy, that local autonomy has been implemented in Mindanao and it has succeeded. The Southern Autonomous Government in Mindanao, composed of Cotabato, Sulu, Zamboanga and part of Northern Zamboanga, has now a seat in Zamboanga, with a legislative and executive chairman. It has solved many of the agitations and problems of Southern Mindanao. My remark is simply to supplement and to add, to the argument and presentation of the Chairman that this is a working reality. Local autonomy is no longer a theoretical concept in Southern Mindanao. There is local autonomy whose seat is in Zamboanga, there is a chairman of the executive council, and there is also a legislative council. Each province in Southern Mindanao is represented in the legislative seat in Zamboanga and the representatives meet to enact measures for the good of the region. So, as far as local autonomy is concerned, it is a success in Mindanao and there is no reason why we should not move

forward to embrace further provinces under the same aggrupation, powers and delegation, so that in the end, the autonomous region will take care of its own problems as we are now taking care of our problem in Zamboanga, Sulu and Cotabato. This would, in turn, spread the concept which will ultimately be the force in forging the national unity that the Filipinos have dreamed of and have achieved to a certain extent. So, regional autonomy is now working in Southern Mindanao.

Thank you.

MR. NOLLEDO: The next speaker, Madam President, is the honorable Commissioner Bennagen.

THE PRESIDENT: Commissioner Bennagen is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER BENNAGEN

MR. BENNAGEN: Thank you.

Actually, we have a number of arguments for creating the autonomous regions. Many of these have to do with efficiency and manageability, but we will discuss them during the period of interpellations and period of amendments.

Given the little time that I have, I will just read a paper arguing for the granting of autonomous region status to both the Cordilleras and the Bangsa Moro.

For the last several weeks, we have been deliberating on matters that touch the life of every Filipino, born and unborn. Now, we will be deliberating on matters which shall determine the fate and destiny of the Bangsa Moro and the Cordillera people — a fate intertwined with our own, and for the entire country, a future which could spell war and fragmentation or a future of peace and justice for all. Away from the harsh realities of the neglected and underdeveloped conditions of the Cordilleras and of Mindanao, it is easy for us in the comfort of this hall not to see how our decisions could affect the lives of millions of people whom we do not know. But I do know and have felt the overwhelming passion of the Bangsa Moro to achieve recognition of their right to self-determination. I have been witness to the courage and perseverance of the Cordillera peoples in their struggle for peace and justice. They see regional autonomy as the answer to their centuries of struggle against oppression and exploitation. For so long, their names and identities have been debased. Their ancestral lands have been ransacked for their treasures, for their wealth. Their cultures have been defiled, their very lives threatened, and worse, extinguished, all in the name of national development; all in the name of public interest; all in the name of the common good; all in the name of the right to property; all in the name of the Regalian doctrine; all in the name of national security. These phrases have meant nothing to our indigenous communities, except for the violation of their human rights.

I can recite a litany of their grievances which spans centuries—poverty, illiteracy, malnutrition and death rates. But I will simply quote an old man from the Cordilleras who said: "We asked the government for a teacher, it did not give us one. We asked for some help in fixing our roads, it did not send us any. We asked for a doctor, it did not send us one. Instead, government men came to build a dam and sent in the Philippine Constabulary and the army. These, we did not ask for."

There are statistics on the thousands of indigenous communities displaced by plantations, hydroelectric dams, mining and logging operations by virtue of state laws, presidential decrees and letters of instructions. But it will suffice to quote the eloquent voices of Bontoc and Kalinga warriors. They say: "Long experience has shown us that the outsiders' law is not able to understand us, our customs, and our ways. Always, the state laws make just what is unjust, and make right what is not right. We are planted here, rooted in sacred land. All our dead are

buried here. Now we are asked by the government to allow our dead to be covered by the waters of the Chico Dam Project. This is an impossible request. The government assures us that it will spare no effort to disinter the dead, to remove the remains to new and better sites. It does not understand. The very soil we tread on is the dust of our fathers. What kind of law is this that asks us to agree to our annihilation as a people? If we accept the decree of the government, it will be as if we ever doubted that we belong to the land or that we question our ancient law. If we are forcibly relocated, we can tell you that we will no longer consider ourselves under the law."

Let us not forget that among the Bangsa Moro and the Cordillera people were people who were massacred, salvaged, arrested and imprisoned, tortured and raped, all in the name of national security, law and order. For the entire history of the Bangsa Moro and the Cordillera people is a history of oppression and discrimination; but theirs too is a history of heroic resistance against subjugation, tutelage and assimilation by the Spaniards, the Americans, the Japanese, and even against uncaring Filipinos.

We should not, therefore, be surprised if they continue to practice their ancient traditions of tribal democracy and custom law, if they persevere in their cherished belief and persist in their struggle to regain the right to self-determination.

History tells us, without meaning this to be some kind of blackmail, that the Bangsa Moro and the Cordillera people can wield the willpower and determination like fierce knives and sharp spears in demolishing any obstacle in their quest for justice, peace and self-determination. Listen to the fiery words of a Muslim: "If we act in a civilized way which is the way of Islam, they do not listen to us. Pero huramentado o jihad, iyon ang pakikikingan nila."

Honorable Commissioners, we wish to impress upon you the gravity of the decision to be made by every single one of us in this Commission. We have the overwhelming support of the Bangsa Moro and the Cordillera people to grant them regional autonomy in the new Constitution. By this we mean meaningful and authentic regional autonomy. We propose that we have a separate Article on the autonomous regions for the Bangsa Moro and Cordillera people clearly spelled out in this Constitution, instead of prolonging the agony of their vigil and their struggle. This, too, is a plea for national peace. Let us not pass the buck to the Congress to decide on this. Let us not wash our hands of our responsibility to attain national unity and peace and to settle this problem and rectify past injustices, once and for all.

For once, let us think of our indigenous communities even as we think of the whole nation. For once, let us help pave the way for a future of prosperity based on the equality of all people. For once, let us courageously decide on issues based on their internal merits and not to be clouded in our reasoning by the tyranny of emotionally loaded words, as often indicated by statements like "The only good Moro is a dead Moro."

Let me repeat the poignant words of Senator Diokno who wrote to Marcos years ago, during the height of the Bontoc-Kalinga struggle against the Chico Dam Project:

Our indigenous communities are part and parcel of us. They are living links to our yesteryears, perfect exemplars in fact of the barangay democracy you seek to promote. In their culture they may well be a lamp on our past, to our tomorrow. To destroy them is to destroy a vital part of our past, our present and our future. Their death as a people, and we do not hesitate to call it "genocide," will be ours, too, as a nation. Whether justice or injustice, peace or violence, life or death shall prevail, is entirely in your hands.

Finally, let me echo the wise words of the Muslims whom we met during the public hearings: "You in this Commission have a rare opportunity to write a document of peace and justice."

Let us not miss that opportunity.

Marami pong salamat.

MR. NOLLEDO: I thank Commissioner Bennagen. The last but not the least speaker is the Honorable Blas F. Ople.

THE PRESIDENT: Commissioner Ople is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER OPLE

MR. OPLE: Thank you, Madam President.

I think the Commission is dealing with two reports from the Committee on Local Governments. Committee Report No. 21 deals with local autonomy for the government as a whole, particularly the local units, which I think is very important. It is said that this is a colonial legacy, the overcentralized system of government that denies the role of initiative at the local levels. It is, of course, understandable that a colonial power would first of all annihilate the autonomy of local units in order to ensure a foolproof security against potential rebellions or disturbances. But at the same time Committee Report No. 25 deals with a more specialized kind of autonomy, that is to say, autonomous regions, on the premise that certain regions with unique cultural, historic, social and even religious bonds where they have been placed in a position of inferiority relative to the dominant groups in society have the right to demand autonomy, a measure of self-determination within the larger political framework of the nation-state. I am addressing my remarks in the next two or three minutes precisely to the purposes of Committee Report No. 25. Within this draft Article, therefore, there is a major provision for the creation of autonomous regions. It is an authority for Congress to provide by law for such regions of autonomy as may be determined to be necessary.

Throughout modern history, Madam President, autonomy for certain regions within the framework of the nation-state has meant a constructive alternative to secessionist aspirations. May I quote briefly from the Encyclopedia of the Social Sciences the following words, and I quote:

Autonomy on a territorial basis would easily conflict with the State but the two are not irreconcilable. If a State fails to induce interest in the continued maintenance of the State union on the part of frontier outlying or racially alien regions, it incurs the danger of their being annexed or of their gaining independence. As a remedy, the State may grant to such regions a certain measure of self-government within the larger political framework.

The Muslim-Filipinos in Mindanao have fought for hundreds of years to preserve their independence and their identity from the colonial power. More recently, they precipitated a civil war in Mindanao which has already caused an estimated 100,000 lives, including the lives of noncombatant women and children. The hostilities fortunately were suspended in 1976 as a result of the Tripoli Ceasefire Agreement. But this dormant war may act up all over again with all its renewed fury if no understanding is reached between the Moro National Liberation Front and the Aquino government. I understand that by next month the negotiations will resume in Jeddah where also the organization of the Islamic Conference will be meeting. And that is the whole point. This agreement for peace between Filipinos has been mediated by a 42-nation international organization of the Islamic Conference as though our Muslim brothers have to look beyond our own shores and beyond the capabilities of our own government, across the seas, for justice in the association of their fellow legionists called the Islamic Conference of 42 states.

In the Cordillera region, we all know that there is still an ongoing armed rebellion as well as continuous militant but peaceful agitation for autonomy.

The Constitutional Commission is, therefore, presented with one of those rare opportunities, perhaps unrepeatable, to seal the permanent unity of these two regions with the rest of us, with the rest of the republic by granting them autonomous status as proposed in this draft Article within the larger sovereignty of the Republic of the Philippines. The draft Article prepared by the Committee on Local Governments under the distinguished chairmanship of Commissioner Nollado defines the criteria for autonomous regions and their spheres of jurisdiction. It reserves very clearly certain powers that only the national government may exercise including those dealing with foreign affairs, national defense, post, telegraph and communication and even the guidelines of economic policy, and where there is a security force, the supervision of the Armed Forces of the Philippines, and the control of the President of the Philippines.

It calls on Congress to enact the organic acts for two regions — Mindanao and the Cordillera — within one year from the election of its members. So, this is an assignment with a deadline to insure that there will be results. The approval of this provision will immediately raise the hopes, morale and faith in the nation of the millions of our brother Filipinos involved in these regions and will be a major contribution to peace in our land, in our time.

Thank you, Madam President.

MR. NOLLEDO: I thank Commissioner Ople.

Madam President, we are now ready to entertain questions from the honorable Members of the Commission.

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

THE PRESIDENT: Commissioner Treñas is recognized.

MR. TREÑAS: Madam President, may I ask the Committee or its Chairman a few questions for clarification?

MR. NOLLEDO: Gladly.

MR. TREÑAS: I am referring to Committee Report No. 21. Section 1 made reference to the different political subdivisions and among them, the barrios. I notice that in the 1973 Constitution, the barrio was also referred to as the smallest political subdivision.

In the meantime, we have the barangay as the smallest political subdivision. May I ask the Committee if this provision of the 1973 Constitution referring to the barrios has been amended and instead the barangay was used?

MR. NOLLEDO: The Committee has decided to revert to the original name of barrio instead of barangay.

Mr. Marcos issued some decrees changing the barrio to barangay and those decrees should be declared unconstitutional because there was no corresponding amendment in the 1973 Constitution. The 1973 Constitution uses up to now, as also embodied in the Freedom Constitution, the word "barrio." Besides, we received a lot of communications from all over the country asking us to revert to the name "barrio" because most of the ancient and even legal documents including titles still use the word "barrio." The term "barrio schools" is still found in the different parts of the country. I think another reason is that the barangay is indicative of the dictatorial regime of Mr. Marcos. It is also the unanimous sense of the members of the League of Governors and City Mayors that we revert to the term "barrio."

MR. TREÑAS: So, from the time of the adoption of the present Constitution we are drafting, we shall refer to barrios.

MR. NOLLEDO: Yes, Madam President.

MR. TREÑAS: Insofar as Section 3 of the Article on Local Governments is concerned, in case of province or city

or municipality is divided or merged, the approval of the majority of the votes in a plebiscite called for the purpose in the unit or units directly affected is needed. We had a recent case of Negros del Norte which was divided from Negros Occidental. The plebiscite referred only to the inhabitants of the proposed municipality and the Supreme Court declared it unconstitutional. The Committee adheres to the ruling of the Supreme Court that the inhabitants to be consulted should not only be the inhabitants of the new province or city or town but the whole province. Am I right?

MR. NOLLEDO: I agree with the Gentleman fully. I think the Committee will fully agree because of the words "directly affected." Those people are also directly affected by division.

MR. TREÑAS: Just one more question. Section 6 of the same Article made reference to the right of local governments to create their own sources of revenue and taxes. However, Section 7 also gave the same right to local governments to levy and collect charges of contributions unique, distinct and exclusive to them. Will the Gentleman briefly explain the difference between Section 6 and Section 7?

MR. NOLLEDO: First, with respect to Section 6, this is a direct conferment by the Constitution on each local government unit of the power to impose its own sources of revenue and to levy taxes subject to such guidelines as may be fixed by law. The Gentleman will notice that instead of using "limitations as may be fixed by law," we used "guidelines" as recommended by the League of Governors and City Mayors. So, there is a need for an authority like this constitutional authority for each local government unit to impose such taxes, fees and charges. With respect to Section 7 this section recognizes some customary rules authorizing the levy of unique, distinct and exclusive taxes in accordance with the customs of each particular place: There is no need of any law, constitutional or statutory, for local government units to impose these taxes. In other words, we recognize the existence of customs and, in effect, we give validity to such customs.

MR. TREÑAS: Precisely, I notice the significance of the fact that while in Section 6 the Committee placed "subject to such guidelines as may be fixed by law " the same is not found in Section 7.

MR. NOLLEDO: Yes, because there is an intent on the part of the Constitutional Commission, it seems to me, to preserve the customs and traditions of members, of the indigenous communities. And this is one way of preserving their customs and traditions. When these levies are imposed by customs, I think we assume that the members of the indigenous communities consider them reasonable enough and they are willing and able to pay them.

MR. TREÑAS: Therefore, I am to understand that Congress cannot, insofar as Section 7 is concerned, pass a law subjecting the levy and charges mentioned therein to any guideline.

MR. NOLLEDO: We do not necessarily preclude that possibility. Congress may, after all, impose such guidelines as when the people crave for such guidelines.

MR. TREÑAS: However, the effect of Section 7 is that local governments may spend the levy and charges for its own use.

MR. NOLLEDO: That is true.

MR. TREÑAS: Exclusively?

MR. NOLLEDO: Yes, Madam President.

MR. TREÑAS: Finally, I notice in the Article on Local Governments that highly urbanized cities, which were mentioned in the 1973 Constitution, are not mentioned anymore. The effect of that is, as I recall, highly urbanized cities were not allowed to vote for provincial officials. Since we have done away with them, inhabitants of the

cities can now vote for provincial officials.

MR. NOLLEDO: Yes, Madam President. I think that was a clear intent on the part of the Committee. The Gentleman will notice that in Section 4 (1), Article XI of the 1973 Constitution, this sentence appears:

Highly urbanized cities, as determined by standards established in the local government code, shall be independent of the province.

We deleted that; we did not place that in our report because we believe that voters of highly urbanized cities should be allowed to participate in provincial elections.

MR. TREÑAS: Thank you very much.

MR. RAMA: Madam President, I would like to ask a few questions of the Committee.

THE PRESIDENT: Commissioner Rama may proceed.

MR. RAMA: One reading Articles XXI and XXV will learn a lot of things about what are the autonomous units, who will form the autonomous units, what the main features of the autonomous units are, who is going to supervise them, et cetera, but it seems that one would not learn this basic question. What is the purpose of these autonomous units? Why are we creating or introducing them? Why do we need these autonomous units? Why do we create them? Does the Gentleman not think that we should have some kind of a statement on the purpose, considering that this is a new feature in our Constitution whereby the citizen could understand and know the justification and the reason for such autonomous units by giving a center to all these Articles like, for instance, stating that the purpose is to speed up the economic and social development of the regions and the people therein? Would the Gentleman consider a statement to that effect later in the period of amendments?

MR. NOLLEDO: Yes, Madam President. That question of the Gentleman, I think, is very vital because the members of the Committee are deeply concerned about the formation of autonomous regions. Based on my sponsorship speech, I believe that the purely unitary system has been a failure in the Republic of the Philippines. This country will never progress if we do not create autonomous regions.

MR. RAMA: Yes, I agree with the Gentleman completely but I just want that information for the people.

MR. NOLLEDO: Yes. I would like to furthermore state, if the Chair does not mind, that even in the Constitutional Commission, we decided to fragmentize ourselves into forming various committees towards a common end to draft the Constitution as early as possible. You will notice that Committees function effectively, and so we talk of some sort of a division of labor in the same manner that we talk of division of power.

For purposes of posterity, we would like to give some advantages in support of regional autonomous regions.

Rapid growth could be better attained with a more efficient-and effective management of the country. By limiting matters to be decided by the central government to those of national importance, the central government will not be unduly distracted by localized problems. Moreover, programs should be designed according to regional priorities and potentials rather than on the national yardstick of least common denominator. A genuine autonomy is inhospitable to the rise of another Marcos; it will be more difficult for foreign powers to influence or dominate the country because it may happen that foreigners may influence one region but another region may resist, and it is not easy to control all these regions. Also, by reason of the archipelagic geography of our country, central governance is inefficient and unresponsive. A regionalized structure will make the government more accessible to the people. That we are regionalistic as a people is beyond dispute. The reasons for these are, besides our island geography, the existing linguistic and ethnic diversities. The State can achieve equitable distribution of income through the decentralization of political and economic power. In addition, the exercise of these powers through

local autonomy is also the key to modernization of our rural areas. You will notice that the following countries have autonomous regions: Spain, Italy, Argentina, Switzerland, Union of Soviet Socialist Republics, Austria, among others. China is also one of them. In fact, in the Constitution of the Union of Soviet Socialist Republics, I understand, even the names of the regions are mentioned. You will also notice that Switzerland, because it has different ethnic idiosyncracies — it has 22 cantons and two are semicantons — despite the fact that its people have different persuasions, remains united. There are Etruscans, Cretans, Celts, Romans, and Germans. They have also a variety of languages. Two-thirds speak German, one-fifth French, one-tenth Italian, and one percent Rhaeto-Romanic. Despite the diversity in religion as well as diversity in customs and traditions, there is unity in Switzerland.

MR. RAMA: Thank you, Madam President.

I notice that the basis for unifying components to form into an autonomous unit as stated in Section 9 should be:

. . . common historical, geographic, cultural, linguistic, ethnic, communal, economic or other characteristics within the framework of and respecting the national sovereignty. . .

On the other hand, in Section 16, it seems that the only basis for forming Mindanao and Cordillera into autonomous regions is the ethnic and cultural reason; is that correct?

MR. NOLLEDO: The Gentleman will notice that that is not the only basis. That provision that he cited — I am very happy that he cited that provision — opens the avenue towards full federalization of the Republic of the Philippines. That is why we enumerated several factors to be considered. The Gentleman can add other factors if he wishes but ethnic consideration is not the only factor to be considered in the grant of autonomy to Muslim Mindanao and the Cordilleras.

MR. RAMA: I grant that ethnic consideration should be considered with respect to these unique regions. But does not the Gentleman think that we should be a little flexible in the sense that when we try to unite certain areas, we also take into consideration the economic basis?

MR. NOLLEDO: We really consider the economic factor as material in the formation of an autonomous region.

MR. RAMA: For instance, there is a site where a dam can be constructed that will benefit a lot of areas around it. Instead of just looking into the ethnic or cultural components of that area, would we not consider from the economic point of view that the whole area would be served by that dam and, therefore, would boost the economy of that region?

MR. NOLLEDO: The Gentleman is perfectly correct, Madam President. In fact, the word "communal" can be a basis to form an autonomous region. For example, we can have Bicolandia as another autonomous region.

MR. RAMA: So, in creating an autonomous region for Mindanao, the Gentleman would consider going beyond areas where the Muslims do not reside if it would be for the benefit of that area as a region or as an autonomous unit?

MR. NOLLEDO: That is a legal possibility, Madam President. The Gentleman will also notice that in Section 9, we added "or other characteristics." We wanted to give a wider leeway to the Congress in the determination of whether the regional autonomy should be granted to a particular region.

MR. RAMA: By the same token, for instance, there is an area or a province that produces certain products and another province that consumes that product because it does not produce that product. Could they not be bounded together in one region on the basis of that economic consideration?

MR. NOLLEDO: That is also a possibility.

MR. RAMA: I thank the distinguished Commissioner.

MR. NOLLEDO: Thank you.

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

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Just a few questions, Madam President.

My first question is: What is the relation of Committee Report No. 21 to Committee Report No. 25? Are Sections 1 to 8 general provisions for a local government unit versus the sections contained in Committee Report No. 25 which refer only to autonomous regions? Or are Sections 1 to 8 general principles which would be applicable also to autonomous regions?

MR. NOLLEDO: Madam President, they are interrelated with each other because even in Committee Report No. 21, we mentioned the term "autonomous regions." Based on basic rules of statutory construction, Committee Report No. 21 may be qualified by the pertinent provisions of Committee Report No. 25 in appropriate cases.

MR. ROMULO: Thank you.

Going to Section 3, my understanding of Section 3 is as follows: That an autonomous region or a province for that matter cannot be created without first having a plebiscite among the inhabitants affected. Is that correct?

MR. NOLLEDO: I agree with the Gentleman, Madam President.

MR. ROMULO: A plebiscite is a precondition to the creation of an autonomous region or a province or a subdivision of an existing unit; is that correct?

MR. NOLLEDO: Yes, Madam President, that is why we did not provide for that anymore in Committee Report No. 25.

MR. ROMULO: So, how does the Gentleman reconcile the need for a plebiscite prior to the creation of an autonomous region with Section 16 which already mandates, upon the acceptance of this Constitution, the Congress to pass an organic act for the autonomous regions of Mindanao and Cordillera?

MR. NOLLEDO: The conflict is more apparent than real because the moment an organic act is granted by the Congress, it is understood that the organic act must find acceptance among a majority of the votes cast in a plebiscite called for the purpose. If there should be no such support, then the organic act would be ineffective.

MR. ROMULO: Does the Gentleman not think he is putting the cart before the horse? Why should Congress not first determine whether the people or the inhabitants affected desire an autonomous region before Congress enacts a law to that effect?

MR. NOLLEDO: Even adopting that opinion, I think there would be no inconsistency. Congress may do that, if Congress should decide to do it.

MR. ROMULO: But there is, because Congress is left no choice. Under Section 16, it is not only mandated to create the organic act; it is given a timetable. It is given no leeway whatsoever and it does not say that this organic act should be presented to the people in a plebiscite.

On the contrary, under Section 10, the legislature consults only the elective officials of the provinces and the cities. So, to me, the construction is clear that prior to a plebiscite, Congress must create these autonomous

regions and they may or may not submit it to a plebiscite because the Gentleman seems to be carving an exception to Section 3 right in this Constitution.

MR. NOLLEDO: I do not think so. Section 3, because it mentions no autonomous region, should likewise apply to an autonomous region. If the Gentleman thinks it is necessary to make the provision clearer, then we will entertain the corresponding amendments.

MR. ROMULO: That is right.

In the Gentleman's answer to Commissioner Treñas with regard to Sections 6 and 7, he seems to imply that in Section 7, the legislature may nevertheless intervene. However, by the wording of the Gentleman, he is subjecting the legislative authority only the taxes created under Section 6.

MR. NOLLEDO: Yes, if the Gentleman does not mind it, the implication that he is talking about was qualified later on. I said there is possibility that Congress may, after all, set forth certain guidelines to be followed with respect to Section 7, if the circumstances should warrant because the wordings in Section 7 do not indicate subject to such guidelines as are expressly indicated in Section 6.

MR. ROMULO: Therefore, statutory construction may dictate later that the authority of Congress is limited only to Section 6; so I think we have to clarify that.

MR. NOLLEDO: As far as I am concerned, there is no need to clarify the same because I feel that the intent is to respect the customs and traditions of the indigenous communities.

MR. ROMULO: But this talks about contributions unique, distinct and exclusive to them; meaning, that these are a unique type of taxes. This is a different type of tax which, I take it, is already accepted in the indigenous communities. So, if the wordings do not make it clear that Congress may enact laws with regard to these unique, distinct and exclusive charges, one may be depriving Congress of that right. My other question precisely is: What are these unique, distinct and exclusive levies?

MR. NOLLEDO: That may create some judicial questions or cases which our courts may decide accordingly.

MR. ROMULO: That is not so if I read the rest of this provision. Such things will be decided by the judicial system which will be created within each region.

MR. NOLLEDO: Yes, that judicial system itself will come into operation when questions of this nature as may be arising from Section 7 may be presented to the courts.

MR. ROMULO: So, the national government, whether it is the legislature or the executive, will be completely left out of this question. My point is that I do not know what is referred to. What kind of taxes are these? Will the Gentleman give me an example?

MR. NOLLEDO: We discussed this in the Committee and Commissioner Alonto made some examples because there are areas where some contributions are traditional. For example, they may arise from relationship of marriage or relationship between parents and children even if they are already emancipated. We did not give specific examples, but customs and traditions can be proved according to the Civil Code by the generally accepted rules of evidence. When someone questions the validity of the imposition, then, as I said, a judicial question may crop up. But in the meantime, these are voluntary acts on the part of the members of the indigenous communities and we do not expect cases to arise therefrom.

MR. ROMULO: In Section 8, local taxes referred to relate, I would take it, to what is provided in Section 6.

MR. NOLLEDO: I beg the Gentleman's pardon.

MR. ROMULO: Local taxes referred to in Section 8, I would assume, are those taxes which are allowed under Section 6. Is that correct?

MR. NOLLEDO: Yes.

MR. ROMULO: Therefore, they have been previously subjected to guidelines from the legislature.

MR. NOLLEDO: Should the legislature decide to do so.

MR. ROMULO: On the other hand, it would not refer merely to local taxes which are collected locally such as real estate tax.

MR. NOLLEDO: It depends on the provisions of the law involved because in the case of real estate taxes, local government units are entitled to a share. That may possibly fall under the last sentence.

MR. ROMULO: Yes, as provided by law, under present law. However, when we talk of a share in the proceeds of exploitation and development of the national wealth within their respective areas . . .

MR. NOLLEDO: That was adopted from the Ople resolution. I would prefer that Commissioner Ople answer that question.

MR. ROMULO. Yes, then let me pose my question. That is neither referred to in Section 6 nor in the first part of Section 8; therefore, how is this to be decided or implemented and by whom? Is this now going to be decided exclusively by the legislature of the autonomous region?

MR. OPLE: Madam President, the issue has to do with Section 8 on page 2 of Committee Report No. 21:

Local taxes shall belong exclusively to local governments and they shall likewise be entitled to share in the proceeds of the exploitation and development of the national wealth within their respective areas.

Just to cite specific examples, in the case of timberland within the area of jurisdiction of the Province of Quirino or the Province of Aurora, we feel that the local governments ought to share in whatever revenues are generated from this particular natural resource which is also, considered a national resource in a proportion to be determined by Congress. This may mean sharing not with the local government but with the local population. The geothermal plant in the Macban, Makiling-Banahaw area in Laguna, the Tiwi Geothermal Plant in Albay, there is a sense in which the people in these areas, hosting the physical facility based on the resources found under the ground in their area which are considered national wealth, should participate in terms of reasonable rebates on the cost of power that they pay. This is true of the Maria Cristina area in Central Mindanao, for example. May I point out that in the previous government, this has always been a very nettlesome subject of Cabinet debates. Are the people in the locality, where God chose to locate His bounty, not entitled to some reasonable modest sharing of this with the national government? Why should the national government claim all the revenues arising from them? And the usual reply of the technocrats at that time is that there must be uniform treatment of all citizens regardless of where God's gifts are located, whether below the ground or above the ground. This, of course, has led to popular disenchantment. In Albay, for example, the government then promised a 20-percent rebate in power because of the contributions of the Tiwi plant to the Luzon grid. Although this was ordered, I remember that the Ministry of Finance, together with the National Power Corporation, refused to implement it. There is a bigger economic principle behind this, the principle of equity. If God chose to locate the great rivers and sources of hydroelectric power in Iligan, in Central Mindanao, for example, or in the Cordillera, why should the national government impose fuel adjustment taxes in order to cancel out the comparative advantage given to the people in these localities through these resources? So, it is in that sense that under Section 8, the local populations, if not the local governments, should have a share of whatever national proceeds may be realized from this natural wealth of the

nation located within their jurisdictions.

MR. ROMULO: Yes, thank you. I am not really arguing the share. All I wanted to know is who will decide and the Gentleman seems to say that it is Congress.

MR. OPLE: Congress will decide.

MR. ROMULO: That is my whole point, not the local legislative assembly but the national Congress.

MR. OPLE: Yes, this will require a national policy that only Congress can establish.

MR. ROMULO: As to Section 9, in view of the Chairman's answers to Commissioner Rama, I would assume that not only are the seeds of federalism implanted in Section 9 but other regions are actually encouraged to become autonomous; is that correct? Is that the sense of the Committee?

MR. NOLLEDO: Yes, Madam President. That is why we mentioned here specifically Muslim Mindanao and the Cordilleras because we feel that these will serve as models should Congress decide to fully federalize the Republic of the Philippines. I believe that we must do so, if we are to go far and if we are to progress.

MR. ROMULO: So, Section 9 really authorizes Congress to federate the Philippines if it so wishes?

MR. NOLLEDO: Yes, we give discretion to the Congress.

MR. OPLE: Madam President, I have a slight disagreement with the Chairman of the Committee. I would like to accept this as a statement of aspiration, but I do not think the committee report is sending a definitive signal to the future that we ought to federalize. If that is the extent of our aspiration, in the proper course, I would invite the Chairman to develop a more explicit provision. That, however, will take us to another domain of public policy which may result in an overhaul of this Constitution and I just wanted to call attention to that.

MR. ROMULO: Yes, in my opinion, that is a very serious question and it would involve momentous decisions. If that is what we are being called upon to decide by Section 9, I think it better be made clear to all of us. We are, in fact, implanting through Section 9 the possibility of federating this country.

MR. OPLE: I do not know if the Chairman agrees.

MR. NOLLEDO: If that is the intent of the Committee or perhaps the possible intent of the Commission, I do not think it is expressly necessary to say so. We are only opening the avenue to the possibility because. . .

MR. OPLE: I think what we want to establish is a kind of maximum decentralization, short of federalization, at this moment in history.

MR. ROMULO: That sounds like someone being half pregnant.

MR. OPLE: No, that is what local autonomy ought to mean.

MR. ROMULO: That is what I am trying to say. Is the Gentleman talking of local autonomy or is he talking of federalism?

MR. OPLE: Local autonomy, Madam President.

MR. ROMULO: Thank you.

Section 12 enumerates a great many powers which will be granted to the autonomous region and these are: powers of taxation, development, health, school, protection of the environment, et cetera. All these require financial and economic resources. Has the Committee in its study determined whether these regions are

economically viable by themselves?

MR. NOLLEDO: In that case, we are leaving it to Congress to determine whether or not it is viable to create autonomous regions out of the particular provinces and cities applying for regional autonomy.

MR. ROMULO: And I take it, because of the mandate, whether viable or not, one will expect the rest of the country to contribute to the viability of these autonomous regions through their taxes. Is that correct?

MR. NOLLEDO: Not necessarily, because whether it is viable or not, I think that is a relative question. Congress may provide the necessary incentives or the necessary support when it complies with the mandate set forth in this Constitution.

Commissioner Bennagen would like to talk on this.

MR. BENNAGEN: Yes.

MR. ROMULO: Let me ask then the other question: Therefore, is Congress free to determine whether the applicant for regional autonomy is viable economically, and if it is not, then Congress may refuse to grant autonomy? Is that the application?

MR. NOLLEDO: Congress may delay the grant.

MR. ROMULO: Delay?

MR. NOLLEDO: It may delay, in the meantime, and it may not grant immediately until viability is proven.

MR. OPLE: Madam President, in connection with that, right now the existing law on local governments provides that one of the standards to be met for creating a new local government unit such as a municipality or a province is the economic viability which is often quantifiable and is so quantified.

MR. ROMULO: Exactly.

MR. OPLE: And, therefore, in enacting the organic act, as mandated here for an autonomous region, the capacity for self-reliance, including financial self-reliance, will be one of the standards that will presumably be laid down by Congress on the basis of existing law.

MR. ROMULO: Although it is conspicuously absent in Section 9.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Yes. For the information of Commissioner Romulo, at least, in the case of both the Cordillera and the Bangsa Moro, we have statistics to show their economic viability based on the investigation of existing natural resources in the area as well as the human resources.

MR. ROMULO: And thus, they do not need the support of the national government?

MR. BENNAGEN: That has to be taken care of again in relation to other existing provisions as already pointed out by Commissioners Ople and Nollado. We do not see here a complete separation from the central government, but rather an efficient working relationship between the autonomous region and the central government. We see this as an effective partnership, not a separation.

MR. ROMULO: Therefore, complete autonomy is not really thought of as complete independence.

MR. OPLE: We define it as a measure of self-government within the larger political framework of the nation.

MR. ROMULO: Yes. And, therefore, relations of dependency when it comes to economic and financial matters may be taken into account.

MR. OPLE: To the extent of its political subordination to the larger sovereignty and especially keeping in mind the very depressed conditions of these regions, I would not foreclose the possibility of Congress desiring to extend national support, especially in the beginning years, to regions with autonomy.

MR. ALONTO: And besides that, Madam President, we would like to inform the honorable Commissioner that even in a real and strictly federal system of government like the United States, economic relation between the central government and the state has never been removed.

MR. ROMULO: That is correct.

MR. ALONTO: There is no complete independence or autonomy, as the honorable Commissioner has mentioned.

MR. ROMULO: And, therefore, it allows the federal government to intervene and to regulate the states when their rights begin to disappear. I just want to make that point.

Section 12 (5) talks of establishment, maintenance and administration of schools in the autonomous region. Basically, I have the same question. I assume again that the cost of maintenance will be borne by the autonomous region. If not, and even if these are maintained, to what extent may this educational system be subordinated or coordinated with the policies of the national government with regard to education?

MR. BENNAGEN: There could be a number of variations on this in relation to financial responsibility. It could end up to a secondary or tertiary level. But we are more concerned with curricular content, with what is being taught; that is, an educational program should be responsive to the particularities of the region and the people's aspirations. So that in recognition of the cultural and geographic diversity, the central government shall not impose a uniform educational system.

As to the mechanics, some form of working relationships can be established between the central government and the regional governments.

MR. ROMULO: But not to the exclusion of the national government's educational policies.

MR. BENNAGEN: No, definitely not.

MR. ROMULO: Because I suppose that while we want to preserve indigenous culture, et cetera, there is another value that we wish to promote, and that is national unity.

MR. BENNAGEN: That is right.

MR. ROMULO: And integration to some extent and identity.

MR. BENNAGEN: That is clear in the statement of principles: that we recognize diversity within the framework of national unity. This holds true in many spheres of social services, not only in terms of education but also of health and even of infrastructure.

MR. OPLE: In the case of Muslim Mindanao, Madam President, "schools" here can refer more specifically to the Madrasah system where Islamic traditions are taught.

MR. ROMULO: There are other speakers; so, although I have some more questions, I will reserve my right to ask them if they are not covered by the other speakers. I have only two questions.

I heard one of the Commissioners say that local autonomy already exists in the Muslim region; it is working very

well; it has, in fact, diminished a great deal of the problems. So, my question is: since that already exists, why do we have to go into something new?

MR. OPLE: May I answer that on behalf of Chairman Nollado. Commissioner Yusup Abubakar is right that certain definite steps have been taken to implement the provisions of the Tripoli Agreement with respect to an autonomous region in Mindanao. This is a good first step, but there is no question that this is merely a partial response to the Tripoli Agreement itself and to the fuller standard of regional autonomy contemplated in that agreement, and now by state policy.

For example, most of the functions listed here are not yet being exercised by the regional autonomous government in Mindanao, and that is the reason for the continuing negotiation between the Philippine government and the Moro National Liberation Front and its allied organizations in order to insure that the standards of autonomy and its effectiveness will rise to that level contemplated in the Tripoli Agreement.

MR. ROMULO: For my final question, Madam President, because I think it is a serious one and I do not wish to have it misunderstood. It seems to have been implied that the choice of the Commission is either to accept these provisions and have peace or we reject these provisions and have war. Is that really the dilemma of the Committee in presenting this to us?

MR. OPLE: It is not the Committee but it is history that presents this choice to our people. I do not think it can be denied that more than 100,000 lives have already been lost. There would have been many more thousands of lives lost, if there was no ceasefire in 1976 and 1977. That Agreement, of course, has suspended hostilities for a time.

But I think we have heard from our colleagues from Mindanao about the new gravity of the situation there. This explains the urgency with which a local ceasefire in Sulu was concluded the other day, and the general sense of relief that greeted it on the part of the national government. But that is merely a partial settlement. The bigger settlement will be negotiated next month in Jeddah, when the President of the Philippines sends a delegation to negotiate with the MNLF within the purview of the next meeting of the Organization of the Islamic Conference.

So, in a sense, we are still threatened with war, Madam President.

MR. ROMULO: Yes. So, it is the Commissioner's position that we really have no choice with regard to this provision.

MR. OPLE: We do not want to appear as though this Committee is intimidating anyone about his choice. But what we are saying is that indeed a stark choice. . . .

MR. ROMULO: That is the logical conclusion of the statement that I have heard.

MR. OPLE: Yes.

MR. ROMULO: That if local autonomy will not be agreed upon as stipulated in this committee report, our choice will be war. If that is so, the Committee is, therefore, not giving anybody a choice.

MR. OPLE: We are not adducing our opinion, but the facts bring themselves forward in terms of this new situation.

MR. ROMULO: Yes.

MR. OPLE: There are threats from the Moro National Liberation Front which cannot be lightly dismissed. They are prepared to resume full hostilities, and on the part of our government, it is becoming a fraternal response.

MR. ROMULO: In the end, the bottom line, which I think I am hearing from the Committee individually or

collectively, is that we have a very small thin choice with regard to autonomy as expressed here or we will have war.

MR. OPLE: I am afraid the Gentleman has described the stark truth of the situation.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I would like to supplement the statement already made by Commissioner Ople. The choice is not something that we, in our own subjective wishes, would like to present in the provisions; it is a choice that is presented to us by the dynamics of social change and the dynamics of history which tell us at this particular point in time that such a decision has to be made. And we only wish that it could be made within the framework of national unity and democratic processes because there are other options that are open to the people beyond which we will have no domain.

MR. RAMA: Madam President, Commissioner Bernas wishes to be recognized.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, the questions I have are fundamentally follow-up questions on some of the questions raised by Commissioners Treñas and Romulo.

I would like to begin from the recently decided case of Negros del Norte. The Gentleman said that the principles enunciated in that Negros decision are still applicable under this provision.

MR. OPLE: Yes.

MR. BENNAGEN: Yes, Madam President.

FR. BERNAS: However, I notice that the word "directly" was added in this committee report whereas under the 1973 Constitution, it said: "In a plebiscite called for the purpose in the unit or units affected." Does the word "directly" add anything or modify the principles in the Negros decision?

MR. NOLLEDO: To my mind, the word "directly" does not change the substance of the ruling.

FR. BERNAS: So, it was not the intention of the Committee to change the substance of the ruling.

MR. NOLLEDO: Yes, Madam President.

FR. BERNAS: To go into greater detail, for purposes, for instance, of the creation of a barrio or the abolition of a barrio, would we need a plebiscite of the entire municipality?

MR. NOLLEDO: Yes, because the barrio will be taken out of the municipality.

FR. BERNAS: Yes. And for the purpose of the creation of a city or a municipality within a province, would we have a plebiscite in the province?

MR. NOLLEDO: That is the implication.

FR. BERNAS: And if it is a question of the creation of a province, it would involve a plebiscite within the province or provinces from which that is being cut off?

MR. NOLLEDO: The Gentleman must be implying an existence of a regional government.

FR. BERNAS: Or if it is part of a region, then the plebiscite would involve the entire region.

MR. NOLLEDO: I think so.

FR. BERNAS: But if it comes to the creation of an autonomous region, how widespread will the plebiscite be? Would it be national?

MR. NOLLEDO: That is a very good question. In that case, it should only be the people within the units that will form the region itself. That is my opinion.

FR. BERNAS: But that departs from the principle of the Negros case because in the Negros case, it is not just the people that were included in the new territory but the people from which the territory is being carved out, as it were. If we are creating an autonomous region within the nation, in effect, we really are carving out a territory from the entire nation, so it would seem that logically the entire nation should be involved in a plebiscite.

MR. NOLLEDO: Yes, Madam President, that is the consequence, but it would be unwieldy if we will ask the entire country to participate. We are not taking out the region from the country; we are forming an autonomous independent region. And I think the people who are directly affected are those actually residing within that region.

FR. BERNAS: But the rest of the nation is also affected in the same way that when we create a province out of an existing province, it is the entire province that is affected and not just the portion that is being cut off from that province.

MR. NOLLEDO: We can remedy that by an amendment if it seems that there is a direct contradiction.

FR. BERNAS: The reason I am asking this is not to have a quarrel with the Committee or anybody but just for the sake of clarity. Is the Committee talking about the creation of an organic act?

MR. NOLLEDO: We are talking about the passing of an organic act.

FR. BERNAS: Correct. When the legislature creates this organic act, will it be acting as a constituent assembly or as a legislative body?

MR. NOLLEDO: In relation to that, there is a proposed amendment that the Committee will present in due time. So, if the Commissioner will not mind, I will reserve my answer to that question.

FR. BERNAS: Can the sponsor give us a hint as to his answer?

MR. BENNAGEN: Since the question of autonomy is a matter of exchanging importance to the occupants of the autonomous region, we would suggest that all sectors of that autonomous region be involved, not only the legislature nor the elected local officials but a representative cross-section of the population should be involved.

FR. BERNAS: Yes, that is the reason I am bringing this up. This thing involves some rather far-reaching consequences also in relation to the issue raised by Commissioner Romulo with respect to federalism. Are we, in effect, creating new categories of laws? Generally, we have statutes and constitutional provisions. Is this organic act something in between the two or is it something equivalent to a constitutional provision? If it is going to be equivalent to a constitutional provision, it would seem to me that the formulation of the provisions of the organic act will have to be done by the legislature, acting as a constituent assembly, and, therefore, subject to the provisions of the Article on Amendments. That is the point that I am trying to bring up. In effect, if we opt for federalism, it would really involve an act of the National Assembly or Congress acting as a constituent assembly and present amendments to this Constitution, and the end product itself would be a constitutional provision which would only be amendable according to the processes indicated in the Constitution.

MR. OPLE: Madam President, may I express my personal opinion in this respect.

I think to require Congress to act as a constituent body before enacting an organic act would be to raise an autonomous region to the same level as the sovereign people of the whole country. And I think the powers of Congress should be quite sufficient in enacting a law, even if it is now exalted to the level of an organic act for the purpose of providing a basic law for an autonomous region without having to transform itself into a constituent assembly. We are dealing still with one subordinate subdivision of the State even if it is now vested with certain autonomous powers on which its own legislature can pass laws.

FR. BERNAS: So, the questions I have raised so far with respect to this organic act are: What segment of the population will participate in the plebiscite? In what capacity would the legislature be acting when it passes this? Will it be as a constituent assembly or merely a legislative body? What is the nature, therefore, of this organic act in relation to ordinary statutes and the Constitution? Finally, if we are going to amend this organic act, what process will be followed?

MR. NOLLEDO: May I answer that, please, in the light of what is now appearing in our report.

First, only the people who are residing in the units composing the region should be allowed to participate in the plebiscite. Second, the organic act has the character of a charter passed by Congress, not as a constituent assembly, but as an ordinary legislature and, therefore, the organic act will still be subject to amendments in the ordinary legislative process as now constituted, unless the Gentleman has another purpose.

FR. BERNAS: But with plebiscite again.

MR. NOLLEDO: Those who will participate in the plebiscite are those who are directly affected, the inhabitants of the units constitutive of the region.

FR. BERNAS: So, what I gather from that is that as far as the creation of the autonomous region is concerned, the Committee is really departing from the principle established in the Negros del Norte case.

MR. OPLE: To that extent.

MR. NOLLEDO: Truly to that extent.

FR. BERNAS: Thank you, Madam President.

MR. NOLLEDO: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Uka is recognized.

MR. UKA: Madam President and members of the Committee, permit me to read a portion of a paper sent to me on the subject of the Bangsa Moro autonomy, and I quote:

Autonomy is an expression of the Bangsa Moro's conviction of its being a viable alternative to separation, and reposes their hope in the new Charter now being drafted as one which shall grant recognition to their historical status, inherent rights, and aspirations.

The fundamental premises urging a constitutional grant of autonomy to the Bangsa Moro are: The Bangsa Moro is a historically and culturally distinct and separate nation from the Christian majority and deserves this status under the universal principle of self-determination; and Islam is the religion and way of life of the Bangsa Moro which requires a separate political and administrative framework from the Western concept and principle of separation of church and state. The latter is similarly important because the Bangsa Moro embraces Islam as the central theme, not only of his religious practices, but all other aspects of life including the government and the economy. Hence, a political fusion with the Christian majority is workable only under

a framework of political autonomy which shall allow the full flowering of the genius of the Bangsa Moro in the context of his Islamic culture.

Why does the Bangsa Moro insist on autonomy? Because it is theirs by legal and historical right. Before the coming of the Spaniards in 1521, they were already a sovereign and independent nation. However, they were forced into joining the Philippine Republic after they were promised justice, equality and fairness. But after more than 51 years as citizens of the Philippines, they continue to be treated as second-class citizens.

In spite of the Bangsa Moro's history of struggle against exploitation by the Christian majority, they still have confidence in the new government under President Aquino, in whom they repose their high hopes for justice and recognition of their legitimate status and rights. This positive outlook springs from the knowledge that even the late Ninoy Aquino had openly stood in support of the Bangsa Moro autonomy. It is their hope that President Corazon Aquino shall also stand by her late husband's conviction and commitment to the cause of the Bangsa Moro.

Thank you.

MR. RAMA: I ask, Madam President, that Commissioner de los Reyes be recognized.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, I would like to differ from Commissioner Bernas' view that there is a deviation from the doctrine in the Negros del Norte case when it comes to the creation of an autonomy. I think there is no deviation because we are only creating another form of local government and there is no portion of the territory of the nation that is being divided or separated. Therefore, only the people affected will vote. While in the Negros del Norte case, a new province is being carved out of an existing province, which means a diminution of that existing province and for which reason the whole province will vote.

MR. NOLLEDO: I would like to support that theory, but it seems that the difference is very minimal. And I think Commissioner Bernas has a point there. However, as far as I am concerned, I would like to support the Gentleman's theory because it really supports our report.

MR. DE LOS REYES: In answer to the questions of Commissioner Treñas where he stated that the old provision in the 1973 Constitution, which makes highly urbanized cities independent of the province, is already being repealed because it is his intention again to make highly urbanized cities part of the province.

In Section 166 of the Local Government Code, highly urbanized cities are cities with a minimum population of 150,000, as certified by the National Census and Statistics Office and with the latest annual income of at least P30 million, as certified by the Minister of Finance; whereas the other city is known as the component city which does not have that qualification, which means that it has a population of less than 150,000 and its annual earning is less than P30 million. I would like the Gentleman to know that these highly urbanized cities are better off as independent cities rather than being made part of the province. They are independent; they earn a lot; they even earn more than the province; and, moreover, they do not contribute anything to the province. For this reason, would the Gentleman like to reassess or rethink his stand on the matter? I think the present setup where highly urbanized cities are separate from the province should be maintained.

MR. NOLLEDO: I think the question of Commissioner Treñas is predicated on the principle of whether or not the population of the highly urbanized cities can participate in the election of officials of the province. In all other cases, the provisions cited by the Gentleman; namely, Section 166 of the Local Government Code, which is Batas Pambansa Blg. 337, may still stand. I know as a fact that there is a future amendment to be presented possibly by Commissioner Napoleon Rama where inhabitants of highly urbanized cities should be allowed to vote for elective

provincial officials because there was a claim that this was done by Mr. Marcos in order that the highly urbanized cities composed mostly of intellectuals who are fighting him should not participate in the election of provincial officials because of the intent to control elective provincial officials.

MR. DE LOS REYES: So, under the Gentleman's theory, we will revert to a situation where the Cities of Pasay and Caloocan and, I think, even Quezon City will have to vote for the Governor of Rizal. Is that the intention?

MR. NOLLEDO: I think Commissioner Rama would like to comment on that.

MR. DE LOS REYES: Commissioner Rama's situation is different because that is Cebu City.

MR. NOLLEDO: No, I would like to give my opinion after him.

MR. RAMA: I would like to explain why I filed that resolution. Traditionally, since time immemorial, Cebu City has been voting for its provincial officials. It may be different here in Manila because for a long time the Greater Manila area was not voting for governorship. So, I just want to have that practice because there was gerrymandering in the case of Cebu.

MR. NOLLEDO: I adopt the answer of Commissioner Rama with the addition that the Greater Manila area has been a separate geopolitical unit for a considerable length of time.

MR. DE LOS REYES: Madam President, in Section 1, the Gentleman stated that the different local units and political subdivisions are provinces, cities, municipalities, barrios and autonomous regions. Does this mean that Congress cannot create another form of politic subdivision, for example, a metro government, like to present Metro Manila government? Does the report of the Gentleman's Committee mean that we are doing away with the Metro Manila government and that we are prohibiting future Congress from creating such a form of local government unit forever?

MR. NOLLEDO: I would like to answer the last question because it is more specific. That was the intent of the Committee. Because of overlapping of functions, we feel that highly urbanized cities can stand alone without the need of forming a supergovernment, like the Metro Manila Commission. Besides, we provided in Section 5 of Committee Report No. 21 that local government units may group themselves, consolidate or coordinate their efforts, services and resources for purposes commonly beneficial to them. That, to my mind, is enough basis to form a coordinating agency, for example, to coordinate the basic services and efforts of areas that are covered within the metropolitan area of Manila. In other words, we are doing away with the metropolitan governments even if the draft of the University of the Philippines recommended such kind of government. We did not adopt the provisions on metropolitan government, and this is in accord with the suggestion of the League of Governors and City Mayors.

MR. DE LOS REYES: So, upon the approval of ratification of this new Constitution, assuming that the committee report will be adopted, the Metro Manila Commission and the Metro Manila government shall be deemed abolished.

MR. NOLLEDO: Not necessarily because there is a provision in the Transitory Provisions that existing laws may still continue until changed or repealed by the forthcoming Congress.

But to my mind — I am speaking individually, not on behalf of the Committee — P.D. No. 824 that created the Metro Manila government was really contrary to the Constitution, as I stated in my sponsorship speech. But because the Supreme Court of the Philippines, in the case of Lopez vs. COMELEC and Lopez vs. Metro Manila Commission ruled that P.D. No. 824 is constitutional in view of the 1984 Amendment to the Constitution where the National Capital Region was considered as a separate region by itself. In fact, I think the Supreme Court found

difficulty in justifying the constitutionality of P.D. No. 824.

In view of that ruling and our belief adhering to the rule of law that the Supreme Court, whether right or wrong, is still correct, then P.D. No. 824 still exists until repealed by the Congress of the Philippines.

Thank you.

SUSPENSION OF SESSION

MR. RAMA: Madam President, I move for a suspension of the session for a few minutes.

THE PRESIDENT: The session is suspended.

It was 4:16 p.m.

RESUMPTION OF SESSION

At 4:51 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Acting Floor Leader is recognized.

MR. ROMULO: Madam President, the next interpellator is Commissioner Rodrigo. May he be recognized?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Madam President, I have a few questions for clarification. Section 16 provides that the legislature in within a limited period of time shall pass organic acts for the autonomous regions of Mindanao and Cordillera. My question is: Are these organic acts uniform for the two regions or may the legislature pass one organic act for the Cordillera and a different organic act for Mindanao?

MR. OPLE: Madam President, Section 16 says that the legislature will pass the organic acts for the autonomous regions of Mindanao and the Cordilleras; by that, I suppose that there will be separate organic acts.

MR. RODRIGO: Separate?

MR. OPLE: Yes, for the two autonomous regions.

MR. RODRIGO: So, it is possible for the legislature to give more autonomy to the Cordillera than to Mindanao and vice-versa.

MR. OPLE: Within the framework of the constitutional provisions, Madam President.

MR. RODRIGO: This section mentions autonomous region of Mindanao. Does that refer to the whole of Mindanao?

MR. OPLE: It refers to the so-called Muslim Mindanao in the context of the Moro homeland mentioned in the Tripoli Agreement; but in saying this, I do not want it understood that we are limiting the power of Congress to determine the autonomous areas.

MR. RODRIGO: The Tripoli Agreement, if I remember right, comprises not only Mindanao but Palawan and Sulu, am I right?

MR. OPLE: Yes, Madam President. The original Moro homeland consists of 13 provinces which, however, in the late 1970s had been reduced to about to with Davao, Cotabato and Palawan being taken out of the original area.

MR. RODRIGO: But under Section 16 the legislature has the power to determine which areas will comprise this region. It might specify only a few provinces in the Island of Mindanao plus a few cities, is that right?

MR. OPLE: Yes, Madam President. By these provisions, we do not want to limit the power of Congress in determining the areas of the autonomous regions.

MR. RODRIGO: After enacting the organic acts for Mindanao and the Cordillera, the legislature may then enact other organic acts for different regions in the Philippines. I heard Commissioner Nollado mention a possible autonomous region in Ilocos and Bicol.

My question is: Will the organic act for Ilocos and Bicol be uniform? Or can they again be different from each other?

MR. OPLE: Madam President, I may have a slight disagreement with my colleagues in the Committee concerning the entitlement of the Ilocos and Bicol regions to the same terms of regional autonomy which are proposed to be conferred upon Muslim Mindanao and the Cordillera on the basis that the Ilocos, the Bicol, the Tagalog provinces, the Visayan provinces and some Mindanao provinces constitute the so-called "dominant groups" in the Philippine social and territorial structure and, therefore, autonomy given to one region among these "dominant groups," the so-called traditional Christian Filipino groups, should be accessible to every other such region. The reason why Muslim Mindanao and the Cordillera are claiming autonomy is that they have a certain uniqueness and what they consider an inferior relationship with the dominant groups in society which are the Christian lowland groups, including the Tagalogs, the Ilocanos, the Visayans, the Pangasinenses, the Pampangueños and those in the Christian provinces in Mindanao. And so, I think the specific context for the quanta of autonomy for these dominant groups should be uniform. Committee Report No. 21 refers principally to the nonautonomous regions which constitute the entire infrastructure of our local governments.

MR. RODRIGO: But may regions populated by Filipinos whom the Gentleman calls "dominant groups" be also converted into autonomous regions?

MR. OPLE: According to Chairman Nollado, they may invoke the rights of autonomy.

MR. RODRIGO: Since Commissioner Nollado is the Chairman, is this then the official stand of the Committee?

MR. OPLE: I think the Committee would like to play it safe. If Chairman Nollado agrees, we will say that in the case of the dominant groups — meaning, most of the nation, except for the historically disadvantaged groups with their own unique cultures and traditions — what should apply is Committee Report No. 21.

MR. RODRIGO: So, they may not be converted into autonomous regions?

MR. OPLE: Not in the immediate future, not within the immediate provisions of this Constitution, unless there is a constitutional amendment later that would make available certain federal features or powers of government to all the regions other than the autonomous regions.

MR. RODRIGO: We have on record the statement of Chairman Nollado that under this provision, if the Ilocos region and the Bicol region want to have autonomy, they may do so.

MR. OPLE: I think he said this in the context of a statement of aspirations which later on may follow.

MR. RODRIGO: This is very important so I want a definite answer.

Under these constitutional provisions, if they are approved, may there be autonomous regions outside of Mindanao and the Cordillera? This is very important.

MR. NOLLEDO: Yes, Madam President, under Section 9. That is why it will be noticed that in the comment of Commissioner Rama, he was recommending that ethnic considerations be not the sole consideration in the formation of autonomous regions. That is why we included economic and communal factors, et cetera, instead of concentrating on ethnic characteristics.

MR. RODRIGO: So, this is not a mere declaration of aspiration. This is actually authorized by this proposed provision.

MR. NOLLEDO: It can be interpreted as aspirations because later on certain regions can aspire for an appropriate charter so as to declare themselves autonomous regions.

MR. RODRIGO: So, the legislature then, if it wants to convert Ilocos and Bicol into autonomous regions, will enact the requisite organic act?

MR. NOLLEDO: It is up to Congress to determine the viability.

MR. RODRIGO: I will come back to my question. Do the two organic acts, one for Ilocos and the other for Bicol, have to be uniform or may they be different from one another? May the organic act for Ilocos grant more autonomy to Ilocos than to Bicol and vice-versa?

MR. NOLLEDO: In certain areas, they may be uniform. For example, the setting up of a regional legislature and an executive department, but taking into account the particular characteristics of the region because there may be some differences.

We will notice the analogy that several banks, for example, were granted congressional charters like the charters of the PNB and the DBP. Most of the provisions are uniform, but there are certain provisions where uniformity could not possibly be attained.

MR. RODRIGO: Autonomous regions are, I think very different from banks.

MR. NOLLEDO: No, I am just giving an examples, by analogy, that when Congress grants several charters, we cannot bind Congress by saying that the rule of uniformity should be followed in all cases.

MR. RODRIGO: Let me then pursue this point. May Samar and Leyte later on also be declared autonomous regions, aside from Ilocos and Bicol? And after that may Southern Tagalog be declared an autonomous region also?

MR. NOLLEDO: I did not get the question.

MR. RODRIGO: The Gentleman said that under this provision, Ilocos can be declared an autonomous region with its organic act enacted by the legislature; the Bicol region can be an autonomous region, with its organic act enacted by the legislature. So, I want to pursue this further.

Let us say that Samar and Leyte want to be an autonomous region. Is it within the power of the legislature to declare them an autonomous region and enact its organic act?

MR. NOLLEDO: It is up to the legislature because the question is somewhat vague in the latter part.

MR. RODRIGO: Is it within the power?

MR. NOLLEDO: The Gentleman is talking of the organic act and also whether or not Congress can declare Samar and Layte, whose people are all Warays, an autonomous region. Should Congress so decide, why not?

MR. RODRIGO: Yes, the two are inseparable, based on the proposed provisions that an autonomous region is

created by enacting an organic act for that purpose.

MR. NOLLEDO: And subject to the holding of the plebiscite.

MR. RODRIGO: All right. How about Central Luzon? May we convert it into an autonomous region?

MR. NOLLEDO: Why not?

MR. RODRIGO: Southern Tagalog?

MR. NOLLEDO: Why not?

MR. RODRIGO: Central Visayas . . . and each of these will have its own different organic act.

MR. NOLLEDO: Yes. If one will read the Constitutions of Switzerland, Spain and other countries — I mentioned these some few hours ago — one will notice that these regions were autonomous and granted separate legislatures and executive departments.

MR. RODRIGO: Are they granted different autonomous powers, such that some cantons have more autonomous powers than other cantons?

MR. NOLLEDO: Generally, they have the same powers.

MR. RODRIGO: That is it. Why should we not also make it uniform in the Philippines, if we are going to have a semifederal system of government? Why should we favor one region, giving it more autonomy than another region?

MR. NOLLEDO: That is why we are giving much leeway to Congress to determine in which provisions there must be uniformity, taking into account certain factors, like economic factors, ethnic characteristics and other idiosyncrasies of people living in different regions.

MR. RODRIGO: So, there might come a time when half of the Philippines is composed of autonomous regions and the other half not autonomous.

MR. NOLLEDO: It is possible, Madam President, and I dream for complete autonomy to different regions in the country.

MR. RODRIGO: So, we will have a country which is half semifederal and half-unitary, is that it?

MR. NOLLEDO: Because of the provision that before an autonomous region may exercise its powers there should be a charter to be enacted by the Congress, it is up for Congress to create such an alleged anomalous situation. If Congress so decides that only one-half of the country should be regionalized in the meantime, then I think there is no constitutional inhibition to do so. We should consider the fact that there is a need for a plebiscite and there is also a need for a charter or an organic act to be passed by Congress. Those factors indicate that possibility, Madam President.

MR. RODRIGO: Yes, half semifederal and half-unitary, depending on Congress.

MR. NOLLEDO: In that case, I think the tendency on the part of the other regions, if other autonomous regions have succeeded in their autonomy, would be apply for their respective charters.

MR. RODRIGO: If we want to make our country semifederal, why not make it obligatory for the whole country to be divided into autonomous regions so that we will have uniformity? In that way, there will be no favoritism and we will not be fragmented.

MR. NOLLEDO: If the Constitutional Commission decides, I will be the happiest man on earth. (Laughter)

MR. RODRIGO: I am asking the Gentleman those questions to underscore the defects in their proposal.

MR. NOLLEDO: Madam President, I take this opportunity to mention some things that are happening in the unitary system. Please permit me, if the Gentleman does not mind.

MR. RODRIGO: I am through with my questions because there are others who want to interpellate.

MR. BENNAGEN: Madam President.

MR. NOLLEDO: In the meantime, as a continuing answer to the Gentleman's questions . . .

MR. RODRIGO: I will listen.

MR. NOLLEDO: I talked to several governors and city mayors. They told me, "Mr. Nollado, you know, when we go to the national government, we cannot find the Minister of Local Governments. Whether he is hiding or not, we do not know. We go to Malacañang; we do not find the President. The President is away or they talk to us and we tell them our local problems. They listen to us with sympathy but it seems that there are no solutions to our problems. We invoke certain implementing statutes; they tell us to wait. So, what happens is that we go back to our provinces and cities completely disgruntled and we entertain ill-feeling against the national government. We become helpless; we do not know what to do."

MR. RODRIGO: I would like to state that I am in favor of local autonomy. But if we will have local autonomy, let it be uniform all over the Philippines.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Let me just recall what transpired during the first meeting of the Committee on Local Governments, when the idea of autonomous region was first mentioned.

I remember General de Castro reacting in the same manner that many of us are now reacting. And he said something like: What will prevent the other regions from asking for autonomy? I think my immediate answer was something like this: "Just because we have a law on divorce does not mean that everyone will seek divorce. It depends on whether or not the relationship will be so maintained, so that it is mutually beneficial." And we are saying that the grant of regional autonomy here corrects an extremely uneven development across regions. We feel that the creation of regional autonomy will create a sufficient tension between regions, on one hand, and central government, on the other. That some kind of evening of the development process will take place.

We are saying that the regional autonomy structure will facilitate that catching up with the development process in the more developed regions, because the regional autonomy structure will be more responsive to the particularities of the region, both culturally and geographically, which is to say ecologically.

MR. ROMULO: Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

Would the Committee clarify certain matters?

MR. NOLLEDO: Gladly.

MR. DAVIDE: When the Committee speaks of autonomous region, could a region be any of the 13 regions now? Could it also be the traditional regions — Luzon, Visayas and Mindanao?

MR. NOLLEDO: It is possible, Madam President.

MR. DAVIDE: It could also be possible that a region which may be constituted under this is only a portion of any of the 13 regions.

MR. NOLLEDO: It is possible.

MR. DAVIDE: Since it could be possible that a region which was contemplated here may be a portion of any of the existing region, it could only be a province.

MR. NOLLEDO: That is a possibility.

MR. DAVIDE: In short, Cebu can apply as an autonomous region.

MR. NOLLEDO: The Gentleman will notice that the provisions state: "The legislature shall create autonomous regions consisting of provinces and cities with common historical . . ." It will be noticed also that in the statutory construction, the plural includes the singular and/or vice-versa. So I would consider that there is a possibility.

MR. DAVIDE: That is the possibility. There is also a rule in statutory construction that the plural can include the singular.

MR. NOLLEDO: Yes, I agree.

MR. DAVIDE: So, under this proposal, Negros can also apply as a distinct autonomous region.

MR. NOLLEDO: Yes, Madam President.

MR. DAVIDE: Any province can apply, as a matter of fact.

MR. NOLLEDO: In fact, I heard from many economists that they would like each province to be considered an autonomous region. In our Committee, we received several letters to that effect.

MR. DAVIDE: As matter of fact, any of the islands belonging to a subprovince in Leyte, like the island of Maripeti, which is a subprovince of Biliran, can also apply as an autonomous region?

MR. NOLLEDO: Before I answer that, it will be noticed that in Switzerland we also have the cantons which are very small, and within the canton there is economic progress. We also have the so-called semi-canton in answer to the question of Commissioner Rodrigo. So, there are so many ramifications involved in an autonomous government.

MR. DAVIDE: In other words, under the proposal semiautonomous regions may be created.

MR. NOLLEDO: That seems to be discretionary with Congress.

MR. DAVIDE: But Congress is not prohibited.

MR. NOLLEDO: I do not think so.

MR. DAVIDE: It is not. In other words, Congress can expand the territorial and political subdivisions as provided for in the Constitution.

MR. NOLLEDO: Subject to the plebiscite as required by the provisions of Section 3 of Committee Report No. 21.

MR. DAVIDE: So, is it the position of the Gentleman that an ordinary law can be enacted by Congress,

establishing other forms of political and territorial subdivisions like a semiautonomous region?

MR. NOLLEDO: That is a possibility.

MR. DAVIDE: By ordinary legislations?

MR. NOLLEDO: Yes, by ordinary legislation and in answer to the question of Commissioner Bernas, a charter is an ordinary legislation by Congress.

MR. DAVIDE: Correct. Is it the position of the Committee that an ordinary legislation can establish a new political unit not included in the definition of political and territorial subdivisions in a Constitution?

MR. NOLLEDO: When we enumerated the provinces, cities, municipalities, barrios and autonomous regions as the territorial and political subdivisions of the Republic of the Philippines, we took into account the present existing local government units and the formation of future autonomous regions. The provisions do not prevent Congress in creating other political units.

MR. DAVIDE: What is added are only the words "autonomous region." But I doubt very much if this possibility can be carried out by ordinary legislation without amending the Constitution.

Anyway, I will go to another point. Under the proposal, there are many organic acts as there are regions aspiring for autonomy.

MR. NOLLEDO: Yes, that is the clear implication of Section 9.

MR. DAVIDE: In other words, the concept of the Committee by an organic act is not a general organic act applicable to all who might apply to become an autonomous region?

MR. NOLLEDO: Yes, because of the possibility of nonuniformity as already explained in answer to the questions of Commissioner Rodrigo. Otherwise, we would have adopted the draft of the University of the Philippines recommending a general enabling act.

MR. DAVIDE: In other words, because of possible nonuniformity, it is also possible that each of these organic acts may differ from the other?

MR. NOLLEDO: Yes, but not substantially because, as I said, there are provisions that must necessarily be uniform.

MR. DAVIDE: Since each of these organic acts may differ from the other, each may also not comply strictly with the requirements provided for in the proposed section on autonomous regions.

MR. NOLLEDO: What requirements is the Gentleman referring to?

MR. DAVIDE: We have certain rights, prerogatives and restrictions. These are the standards for the establishment of an autonomous region.

MR. NOLLEDO: The Gentleman must be referring to Section 12 which provides: "Within its territorial jurisdiction, the autonomous region shall have authority over the following." In that case, generally, the charter or the organic act to be granted should substantially set forth provisions covering these instances set forth in Section 12.

MR. DAVIDE: Is it not just possible that the Constitution mandates Congress to enact a general regional autonomy code under which regions wanting to become autonomous would merely apply? Like in the Local Government Code now, if a municipality wants to become a highly urbanized city, it can apply after meeting the

requirements?

MR. BENNAGEN: Yes, I think in the realm of possibility, that can be done in terms of the general principles subject, of course, to some kind of provision that there would be variations to respond to the particularities of the ecology and culture of the area.

MR. DAVIDE: Under this particular proposal, when will an autonomous region begin to have a distinct juridical personality?

MR. NOLLEDO: To my mind, juridical personality will begin when all the conditions required by the Constitution are complied with; namely, when there is an organic act and when majority of the voters in the region have opted to operate under the autonomous government.

MR. DAVIDE: Since this is an organic act, it may also be subject to the principles of initiative and referendum as provided for in the Article on the Legislative and, therefore, the law may be rejected or disapproved through a referendum all over the country. A referendum and initiative operate all over the country because we require a certain percentage of the total number of voters at any given time from all over the country. So, an organic act creating an autonomous region for a certain particular area may be rejected by the votes of all the people of the Philippines by way of a referendum.

MR. NOLLEDO: I thank the Gentleman for asking that question because, as far as I am concerned, there should be an amendment, if necessary, to make the creation of an autonomous region an exception to that rule. We did not foresee that situation. We are grateful to the Gentleman for calling our attention to it.

MR. DAVIDE: And similarly it can be amended also through initiative by a vote of a certain percentage of the qualified electors all over the Philippines.

MR. NOLLEDO: That would be the inevitable conclusion, if we consider the charter or the organic act as mere legislation.

MR. DAVIDE: But is it really an ordinary legislation?

MR. NOLLEDO: Yes.

MR. DAVIDE: It is not really a part or a supplement of the Constitution which can be repealed or superseded by an amendment. But even granting that it is a part of the Constitution, rather it is supplementary and could only be repealed or modified by an amendment, the initiative under the Article on Amendments can also repeal the same.

MR. NOLLEDO: Yes.

MR. DAVIDE: May a portion or a component unit of an autonomous region secede from the mother unit? For instance, we have an autonomous region in Central Visayas, can Cebu secede from the autonomous region?

MR. NOLLEDO: Section 3 can apply to it. Section 3 of Committee Report No. 21 provides:

No autonomous region, province, city, municipality, or barrio may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with criteria established by law.

It seems to me it is subject to the plebiscite as I already mentioned and that the questions should fall under this section.

MR. DAVIDE: Under that particular section?

MR. NOLLEDO: If this is complying with the criteria established by law, now the Local Government Code, and

subject to the holding of the plebiscite.

MR. DAVIDE: So, that particular rule will be made applicable to the autonomous regions.

MR. NOLLEDO: Yes.

MR. DAVIDE: So, secession by a component unit is still possible.

MR. NOLLEDO: Of the autonomous regions?

MR. DAVIDE: Yes.

MR. NOLLEDO: Subject to the conditions already stated therein.

MR. DAVIDE: But there is no specific proposal now of the Committee regarding the applicability of that rule to autonomous regions?

MR. NOLLEDO: There is none.

MR. DAVIDE: Anyway, since there is a plebiscite to be conducted before an autonomous region can come into being — meaning to say, it is the approval in the plebiscite that establishes the commencement of the juridical personality of an autonomous region — suppose in a particular area, which is supposed to be included in the autonomous region, the people rejected the proposal of the autonomy, can that particular area now be compelled to join the autonomous region? A specific example is Central Visayas.

MR. NOLLEDO: I know that because we considered that possibility. It seems to me that presents a complication, but as far as we are concerned, we believe that we decide on whether or not the plebiscite is in favor of the creation of an autonomous region by taking into account the entire voting within the region.

MR. DAVIDE: Yes, but that would be imposing the will of others on the will of the people in a particular component unit. In this specific example, there is a move to establish an autonomous region in Central Visayas, composed merely of four provinces — Siquijor, Negros Oriental, Bohol and Cebu. But almost one-half of the total voting population of the entire region comes from Cebu and Cebu rejects the proposal or it does not want to join. Would the Gentleman now consider Cebu, bound by the entire votes of the other provinces, and compel Cebu to become a member of that autonomous region?

MR. NOLLEDO: That is a very good questions Madam President, but I will tell the Gentleman my own opinion without binding the Committee. Because of the democratic process of being bound by the majority, then Cebu must comply. However, Congress itself may lay down certain conditions that if any province or any unit so decides not to join the autonomous region, that decision should be respected. It is possible that Congress may lay down the condition in the organic act.

MR. DAVIDE: Thank you for that information because at the appropriate time, there is a need for an amendment in that respect.

MR. NOLLEDO: Thank you.

MR. DAVIDE: We will go to the regular local governmental units. Upon the effectivity of this Constitution, the existing Local Government Code shall govern the local government units because, under the proposal, there is no mandate to Congress to enact a local government code. So, necessarily, the existing Local Government Code shall continue to govern all these local government units, except the autonomous region.

MR. NOLLEDO: Except if inconsistent with the provisions of the Constitution that we may approve.

MR. DAVIDE: When the Gentleman says "except when inconsistent," would it mean, therefore, that there is a need to amend the Local Government Code to a certain extent?

MR. NOLLEDO: I think it is not necessary. Any provision of the Local Government Code that is inconsistent with the newly approved or ratified Constitution should necessarily be revoked.

MR. DAVIDE: What about the initiative as presently provided for in the Local Government Code?

MR. NOLLEDO: I ask the Gentleman in return, is that inconsistent with the provisions on initiative of the legislative department?

MR. DAVIDE: I am asking the Committee about this.

MR. NOLLEDO: Because if there is no inconsistency, then the initiative may continue.

MR. DAVIDE: So, we will leave it to the Supreme Court to determine?

MR. NOLLEDO: Should there be a controversy.

MR. DAVIDE: What about on referendum?

MR. NOLLEDO: The same answer holds true, Madam President.

MR. DAVIDE: Recall?

MR. NOLLEDO: We did not have any provision on recall because in the 1973 Constitution that provision was authorized to be included in the Local Government Code. But I understand that there are some Commissioners who would like to present amendments substantially the same as the provision of the 1973 Constitution, mandating Congress to enact a new local government code.

MR. DAVIDE: Yes. Otherwise, the provision on recall may no longer be available even if it is already provided for in the Local Government Code.

MR. NOLLEDO: Yes, based on our report but we are expecting an amendment to reinstate the principle of recall.

MR. DAVIDE: Another point is this Metropolitan Manila Commission of the metropolitan government. I understand that the position of the Committee is that the creation of this government is unconstitutional.

MR. NOLLEDO: That is my personal opinion. I cannot bind the Committee.

MR. DAVIDE: What is the stand of the Committee so we could be guided accordingly in the presentation of amendments or in voting on this particular proposal?

MR. NOLLEDO: As far as the members of the Committee are concerned, it is not necessary to make a stand because we did not adopt the provisions on metropolitan government anyway.

MR. DAVIDE: By not adopting a provision on metropolitan government, it would necessarily follow that once approved, this proposal would, in effect, put an end or abolish the existing metropolitan government?

MR. NOLLEDO: Yes, that would be the necessary effect.

MR. DAVIDE: The necessary further effect would be that municipalities which were included under the Metropolitan Manila Commission would then be considered returned to their mother units?

MR. NOLLEDO: That is also my personal opinion. But the Commissioner knows that the mayors of Metro Manila came to see both of us and they are in favor of maintaining the geopolitical unit, which opinion I share

with. Their existence can still be justified by Section 5 of our committee report which provides that local government units may group themselves, consolidate or coordinate their efforts, services and resources for purposes commonly beneficial to them. And I would like the Constitutional Commission to know that the mayors of Metropolitan Manila are in favor of dismantling the Metro Manila Commission but that they would like to set up a coordinating agency in lieu of the Metro Manila Commission under this Section 5 of Committee Report No. 21.

MR. DAVIDE: Under that particular section that the Commissioner has cited, allowing local governmental units to group together in pursuit of common objectives for their mutual benefit, would it require a plebiscite? Or is it only the act of the executives of these local government units?

MR. NOLLEDO: That is a very good question. I do not think it requires a plebiscite.

MR. DAVIDE: In effect there is a confederacy but a very loose confederacy?

MR. NOLLEDO: I agree with the Commissioner.

MR. DAVIDE: But in such a particular case the lives or the future of the people will be affected. Why do we not require a plebiscite?

MR. NOLLEDO: We could not require a plebiscite because the powers of the coordinating agency involved here are very limited. They refer only to essential services like garbage, cleaning of streets, et cetera.

MR. DAVIDE: Thank you, Madam President, and I also thank the sponsor.

MR. ROMULO: Madam President, I ask that Commissioner Villacorta be recognized.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, I just would like to direct some questions to the Committee. First of all, I would like to say that I am sympathetic to the idea of regional autonomy particularly for the Muslims and the Cordillera regions. I would like to raise the questions asked by the UP Local Government Center in relation to local autonomy in general. For the information of the body, the Local Government Center of the UP has conducted research and training courses for local government officials for several decades throughout the country and has been in close touch with the local governments at all levels. The staff of this Center studied very carefully the committee report on local governments and the first question that they asked had to do with local autonomy in general, and I quote:

To ensure that local autonomy would help rather than hinder the promotion of democracy and efficiency at the local, as well as national levels, the State should undertake political and administrative reforms in local governments to accompany the promotion of autonomy; otherwise, the grant of substantial local autonomy would be a disaster at both levels since it would exacerbate the problems of local oligarchy, corruption and incompetence while making the national policy more vulnerable to centrifugal forces.

There should be separate constitutional provisions against the maintenance and operation of local political dynasties. For example, an absolute ceiling on reelection of the same individuals and rules against close relatives teaming up or alternating in political positions at different levels of government. There should also be constitutional and statutory provisions for more effective community control to insure that their local governments are both responsive and responsible in the broader segments of the community; for example, popular initiatives in local legislation and recall of errant officials.

The national government should compliment these measures by establishing clear and coordinated policies and standards by guiding and gauging local government performance.

What the Center would like to know is whether the Committee is providing for these areas of concern in the other sections or if it would contemplate on adding new sections that will take care of these areas of apprehension.

MR. NOLLEDO: We agree with the observations the Commissioner has just mentioned and we notice that there are two safeguard provisions already adopted by the Constitutional Commission. With respect to the policy on recall, we will welcome any proposal to amend our committee report. I think the observations are well-taken.

MR. VILLACORTA: Thank you.

MR. NOLLEDO: This is just an example. There are many provisions now embodied in the report of the Committee on Accountability of Public Officers designed to eradicate or eliminate graft and corruption in all levels of government.

MR. VILLACORTA: Thank you.

I have just one more question. Section 9 starts with the sentence "The legislature shall create autonomous regions . . . et cetera." Commissioner Nolleto always mentions the Constitution of Spain. If we will notice Chapter 3, Article 143 entitled: "Concerning the Autonomous Communities," the auxiliary verb used "may."

MR. NOLLEDO: In what section is that?

MR. VILLACORTA: I am talking about Section 9. Does the Commissioner mean the Spanish Constitution or his own provision?

MR. NOLLEDO: I have here Sections 135 upwards of the Spanish Constitution on autonomous communities. What article is the Commissioner referring to?

MR. VILLACORTA: I am referring to Article 143.

MR. NOLLEDO: Article 143 in Chapter 3, and it is entitled: "Concerning the Autonomous Communities."

MR. VILLACORTA: That is right.

The Committee is giving the initiative to the legislature, but I notice that in the Spanish Constitution, the initiative is given to the communities themselves thereby preventing a situation where to suit the political interests of legislators, artificial autonomous regions may be set up.

Paragraph 1 of Article 143 states:

In the exercise of the right of autonomy recognized in Article 11 of the Constitution, bordering provinces with common historical, cultural and economic characteristics, the island territories and the provinces with a historical, regional entity may accede to self-government and constitute themselves into autonomous communities in accordance with the provisions of that title and the respective statutes.

Paragraph 2 states:

The initiative for the autonomous process belongs to all the interested deputations or to the pertinent inter-island body, et cetera.

Moreover, I would like to emphasize that the Spanish Constitution does not use "shall" but "may." There is merit in the usage of "may" over "shall," I think it says "The legislature may create" rather than "shall create." This does not make the creation of autonomous regions mandatory inasmuch as there were reservations raised by Commissioners Ople, Rodrigo and others about regions other than the Cordillera and the Muslim regions wanting to be autonomous. The use of this auxiliary verb would probably make the intention of the Committee more flexibly implemented. It may not be wise to mandate the creation of autonomous regions for we are either not

ready for it or it is simply not suited for some regions. Autonomy may be suited to those regions wherein the provinces or cities have sufficient local government levels. To mandate the creation of another intervening layer of local government between the province and the national government without necessarily taking into account the specific or special needs of the area may just result in more bureaucracy not to mention the waste of resources since the autonomous regions will necessarily mean the creation of more administrative structures. Lastly, the second line of Section 9. . .

MR. NOLLEDO: Will the Commissioner please permit me to give my answer to his first question because he is already proceeding to another question?

I suggest that the Commissioner analyze Article 143, Chapter 3 of the Constitution of Spain concerning the autonomous communities. The word "may" refers to the provinces, bordering provinces, to the island territories and to the people applying for autonomy. So the word "may" is on the part of the provinces and the people. Here in our provision, it is on the part of Congress, assuming that there is a corresponding application to create autonomous regions. The moment there is an application to the Congress of the Philippines to create autonomous regions, we are mandating the legislature to so create as long as the conditions required by the Constitution are complied with. So, the word "may" refers to the people themselves. They may or they may not create autonomous communities. So there is a great world of difference between Section 9 of our Committee Report No. 21 and Article 143 of the Spanish Constitution adverted to by the Gentleman.

MR. VILLACORTA: On the contrary, Article 144, if I may proceed, says:

The Cortes Generales, by means of an organic law, may for reasons of national interest: a) Authorize the establishment of an autonomous community, et cetera.

Again, the word "may" is used here, not "shall." Hence, there is always the use of the word "may" in order to counter any possible danger of all communities at all levels demanding that they be considered autonomous.

MR. NOLLEDO: In relation to that, pardon me if I am defending Section 9, while we use the word "shall," in effect, if the autonomous region is not viable as stated in answer to the question of Commissioner Romulo, Congress may deny the grant of an organic act. So there is some discretion left to Congress.

MR. VILLACORTA: Lastly, line 8 of Section 9 of Resolution No. 511 says: "consisting of provinces cities with common historical, geographic, et cetera." Did the Committee really want to use the word "common" or would it had been clearer if the term "distinctive" was used? I think any group in the Philippines can invoke this because we do have so much commonality as far as historical, geographic, cultural, linguistic, ethnic, communal, economic and other characteristics are concerned. What the Commissioner is referring to are actually those communal groups or communities that have distinctive historical, geographic, and other characteristics.

MR. NOLLEDO: We will consider any amendment to that effect.

MR. VILLACORTA: Thank you very much.

MR. ROMULO: Madam President, I ask that Commissioner Quesada be recognized.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Madam President, first of all, I would like to express my support to the proposed amendment. I feel very strongly that we must respond to the people who have expressed such aspiration like the Bangsa Moro people and the people of the Cordilleras. While it is true that the details on how this will be operational would still be worked out, I suppose that the brilliant minds of this Commission would be a great help as the Committee crystallizes some of those areas which are not anticipated. Such areas may cause possible confusion, but basically

these are the concerns that we hope we should be able to respond to.

There are some questions I would like to raise and one would be on Section 2 in relation to the sectoral representation which would be prescribed by law. At this point, does not the Commission think that there should already be some kind of a guideline by the Commission on the definition of these broad categories of sectors to be represented in legislative bodies of local governments? Just for the record, has the Commissioner expressed the intendment of the Commission on such sectoral representation?

MR. NOLLEDO: At the time this was formulated, the Constitutional Commission has not yet passed even on First Reading the provisions on sectoral representation, but we will be guided accordingly in the determination of what sectoral representation should mean.

We will notice that in the Local Government Code, sectoral representation is also provided for, but it seems to me that the members representing the sectors are appointed by the President.

MS. QUESADA: Would the Commissioner consider the classification that we had in the Legislative which consisted of the peasants, farmers, youth, urban poor, women and indigenous communities?

MR. BENNAGEN: That can serve as a broad guideline, but it may not be valid in certain cases because some regions may not be sufficiently differentiated as to allow this kind of representation. I think we will be guided by the comprehensive investigation of the area with respect to existing sectors.

MS. QUESADA: So, the Commissioner will leave this to Congress to prescribe what sectors to be included and excluded?

MR. BENNAGEN: Again, in consideration of the existing realities in the regions, there should be some systematic consultation with the regions.

At this juncture, the President relinquished the Chair to the Honorable Renato V. Sarmiento.

MS. QUESADA: The second point I want to ask concerns the broad exercise of general supervision over local governments by the President of the Philippines.

The Committee mentioned here in Section 12 — and this was clearly defined for the autonomous region but I wonder if this would also hold true for local governments — on line 19, paragraph 7: "Establishment, operation and maintenance of regional health, welfare and other social services." Is the intendment of the Committee to have the autonomous region formulate its own standards and regulations insofar as health, welfare and other social services are concerned, or would they be covered by the general standards of health at the national level?

MR. BENNAGEN: In general, we can say that there must be some general principles which should guide the implementation of social services at the various levels. At the same time, we are saying that the program should also respond to the characteristics at the local level; for instance, the use of traditional medicine or, I think more importantly with respect to the capability of the local regions, there must be some form of sharing with respect to taxes to enable the local governments or the regions to maintain a self-reliant social service program.

MS. QUESADA: So that would be in the area of determining the priority or the program thrust in the autonomous region or even in the local government. However, I am thinking of certain standards of that expectation and regulations like if the country aims to reduce the level of communicable diseases, would the local governments be able to respond to that national mandate for improving the level of health?

MR. NOLLEDO: To my mind, the national mandate set forth in the Constitution should be considered binding. So the provisions on health as we have already approved should bind the regional and other local governments.

MS. QUESADA: So, the Commissioner would amenable to qualifying this paragraph 7 of Section to correspond to what he has placed here which says: "Protection of the environment in accordance with standards and regulations of the national government"?

MR. NOLLEDO: Yes.

MS. QUESADA: Then the third point I would like to reinforce is the item expressed by the Committee, on Section 8 which deals with local taxes and the sharing of the proceeds of the exploitation and development of the national wealth. I would just like to put on record that there was a resolution also submitted to this Member the Province of Negros Oriental in relation to their geothermal resources in the area of Palimpiñon, Municipality of Valencia, which they felt did not really improve the development of the province, although they were hosting such resources. So, this is really to add on to what Commissioner Ople already mentioned that a host community does not really profit from such wealth because it becomes part of the national wealth. I think the people of Negros have already expressed this concern — that local government should really partake of the wealth and natural resource that they have in their place.

These are all the questions I want to raise and I hope that this body will be able to really iron out these matters and to consider not to eliminate the concept of autonomy for the people who have so loudly and clearly expressed this desire to us.

Basically, this is the people's cry for self-determination that we must respect, not for those who have not yet expressed such will or aspiration but for those who have already done so like the people of the Cordilleras and the Bangsa Moro people.

Thank you.

MR. NOLLEDO: Mr. Presiding Officer, I would like to express my thanks to Commissioner Quesada for her sympathetic understanding. Instead of showing indifference, she set forth a wonderful rule, that we should find ways and means by which we can serve our people well because we, the members of the Committee, tried our very best and if any of the Commissioners disagrees with us, then he can suggest to us amendments and will subject ourselves to the will of the majority in Commission. The attitude of Commissioner Quesada overwhelming and I feel grateful to her. I think that should be the attitude of every Commissioner. Commissioner Quesada has manifested broad-mindedness and generosity, as well as magnanimity.

MR. ROMULO: Mr. Presiding Officer, may I ask that Commissioner Suarez be recognized.

THE PRESIDING OFFICER (Mr. Sarmiento): Before Commissioner Suarez interpellates the members of the Committee, I think Commissioner Bennagen would like to say something.

MR. BENNAGEN: Yes. I think we have moved away a great deal from the rather innocuous provision on regional autonomy to the rather threatening concept of federalism. I think when we were discussing this in the Committee, we had in mind nothing more than the concrete elaboration of the 1973 Constitution, Section 11 of the General Provisions thereof, which says:

The State shall consider the customs, traditions, beliefs, and interests of national cultural communities in the formulation and implementation of State policies.

While sympathetic in its intent to the very concrete concerns of cultural minorities, this provision was honored more in the breach. As a matter of fact, the commentary on this was put in a bronze plate along the Chico River. What we are saying now is that we trace historically the evolution of these various indigenous cultural communities. We begin to find out that since the Spanish period, these cultural communities have been integrated

into the national mainstream as collectivities in contrast to the effort of the national government to integrate Filipinos as individuals. Note that since the Americans got in, they carried over the distinctions already made by the Spanish government in terms of Muslims, non-Christians, Christians, Indios, and Fieles.

This was further elaborated on by the American government and expressed administratively in the creation of a number of organizations that deal specifically with these cultural communities as collectivities, not as individuals so much so that we have had even after political independence organizations such as the Bureau of Non-Christian Tribes and others which again separated these groups from the larger Christian lowland population. In other words, this has been long in coming. These groups have retained distinctive characteristics to warrant the proposed amendment expressed earlier by Commissioner Villacorta.

The popular definitions of cultural minorities all encompass the fact that they have been the least westernized. This is a commentary on the degree of westernization that has taken place amongst the low-land Filipino Christians.

We are saying, therefore, that these groups — the people of the Cordillera; the Bangsa Moro; the Lumad (which is a generic term for the various cultural communities in Mindanao, as well as the scattered tribes in Mindoro and Sierra Madre); and the Ati or Negritos of the Visayas — have arrived at a self-definition which separates them from the overwhelming majority of lowland Filipino Christians. It is in recognition of this self-assertion of their peoplehood that we have this regional autonomy provision apart from those other considerations that have already been discussed such as efficiency, manageability and all others that could very well apply to local government. However, regional autonomy specifically responds to these distinctive features that have separated them from lowland majorities for so long.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Sarmiento): The honorable Commissioner from Pampanga is recognized.

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

I would like to follow the thrust that was presented by Commissioner Quesada and confirmed by Commissioner Nolleto that we should be contributive to this particular Article. Indeed, it is susceptible to many interpretations. I take it that the main thrust of this Article is to decentralize the government.

Is my understanding correct?

MR. NOLLEDO: Is the Commissioner referring to Section 9?

MR. SUAREZ: Yes, practically to Section 9. And the Commissioner would like to get away from the centralized government initiated by Spain and the United States even under the 1935 Constitution?

MR. NOLLEDO: Yes; I made the statement here and I know many may disagree that the unitary system is the cause of all the ills in the country. We will never go far if we stick to the unitary system, if we do not keep out of the maverick shell of conservatism and obsolescence.

MR. SUAREZ: Thank you.

Your Committee has been bombarded with questions regarding the possible proliferation of autonomous regions in our country. But I notice that under Section. 9, the Committee provided for the common characteristics which would serve as basis for our legislature to create autonomous regions. Is that not correct?

MR. NOLLEDO: Yes, but we added the words "economic characteristics." We did not concentrate on the historical, linguistic or ethnic idiosyncracies.

MR. SUAREZ: So, can we clarify this point? When we speak of common historical, geographic, cultural, linguistic, ethnic, communal and economic characteristics within a proposed autonomous region, do we intend all of these characteristics to coexist, to concur and to coincide together in a substantial degree?

MR. NOLLEDO: Not necessarily, because some of them may not concur.

MR. SUAREZ: I see. So it is possible that an autonomous region could be created and established even if it has only geographic characteristics?

MR. NOLLEDO: That is possible but if I were the Congress I would go far when I grant the organic act.

MR. SUAREZ: The same is true with respect to the other characteristics, like historical, cultural, linguistic, ethnic, communal and economic. They could exist independently of each other; nonetheless, they could serve as the bases for the creation of an autonomous region. Is that understanding correct?

MR. NOLLEDO: Commissioner Bennagen would like to answer.

MR. BENNAGEN: In the history of autonomous regions, there are these substantial characteristics so enumerated, and to distinguish autonomy from the concept of a federal state, we in the Committee say that autonomy refers to regions that really show distinctiveness with respect to culture and ecology.

MR. SUAREZ: So, the Commissioner would say that in a substantial degree, all of these characteristics must be common in that autonomous region?

MR. BENNAGEN: Yes.

MR. SUAREZ: Thank you.

Under Section 15, the Committee is referring to two proposed autonomous regions — Mindanao and the Cordillera. I heard Commissioner Ople mention the fact that the Provinces of Davao, Cotabato and Palawan are not included or may not be included within the autonomous regions of Mindanao. Is my understanding in this regard correct?

MR. ALONTO: Under the Tripoli Agreement those provinces that the Commissioner mentioned which were originally part of the supposed autonomous regions to be established were eliminated by the last regime when it started to put up these two autonomous regions in Mindanao; namely, Regions IX and XII. But as far as this committee report is concerned, these autonomous regions existing now in Mindanao are considered points of reference only because as we notice, Section 16 states that the first legislature under this Constitution shall, within one year from election of its Members, pass the organic acts for the autonomous regions of Mindanao and the Cordillera. And in passing the organic acts by the Congress, this refers back to Section 9. In other words, this section does not specifically refer to the autonomous regions now in existence. Under Section 9, Congress will take into consideration all factors which would justify the forming of regions, provinces or cities having common historical, geographic, cultural, linguistic, ethnic, communal, economic and other characteristics to form one autonomous region. In other words, Congress is not really bound by the existing autonomous regions in Mindanao when the organic acts will be enacted in the future.

MR. SUAREZ: Thank you.

I just want to clear up this point because geographically speaking, Mindanao is composed of many provinces. However, for purposes of this committee report, is the Committee envisioning the inclusion or exclusion of Davao, Cotabato and Palawan so that this would be on record for future legislation?

MR. BENNAGEN: May I answer that, Mr. Presiding Officer.

The issue here is not the existing political boundaries but the claim to ancestral land. At the bottom of the struggles of the people of the Cordillera, the Mangyans of Mindanao, the Dumagats of Tanay, and much more so in the case of the Bangsa Moro people is the claim to their ancestral land. Having said that, we wish to emphasize that the claim to ancestral land is the claim to their peoplehood because their peoplehood is based on the land, in contrast to the western claim to the land by means of a piece of paper. That has to be reconsidered apart from existing political boundaries.

MR. SUAREZ: So what is the final answer? Are these three provinces going to be excluded for purpose of creating regional autonomous regions in Mindanao?

MR. ALONTO: Mr. Presiding Officer, if we read very well these different sections, we could immediately imagine and conceive that it is Congress that is actually going to choose the cities and provinces that will compose the autonomous regions. Likewise, Congress bound to enact the organic acts after the majority of the people would have been brought together in a referendum.

MR. SUAREZ: Thank you.

MR. NOLLEDO: In other words, we do not like to mention any statement that certain provinces are not included or should be excluded because we would like to give Congress a leeway to determine what shall compose a particular autonomous region.

MR. SUAREZ: So, probably, the correct interpretation is "regions in Mindanao" instead of "regions of Mindanao."

Is that the meaning sought to be conveyed? so because when we speak of regions of Mindanao the Cordillera, we are referring only to two regions.

MR. BENNAGEN: Yes, that is correct. Incidentally, we wish to declare that when the period of amendments comes, we would like to amend Section 9 to change "provinces and cities," which are existing political categories, into AREAS AND POPULATIONS so that we will not be delimited by existing concepts of provinces. We feel that the existing boundaries do not represent cultural and ecological realities, rather they were responses to some political needs and administrative requirements. We wish to correct that.

MR. SUAREZ: Thank you; and I suppose the rule in the case of Mindanao would apply also to the case of the Cordillera.

MR. BENNAGEN: Yes.

MR. SUAREZ: We will not have to mention the provinces composing the probable autonomous region of the Cordillera . . .

MR. BENNAGEN: . . .where it does not reflect the ecological and cultural realities.

MR. SUAREZ: Thank you.

May we now go to Section 8 referring to "proceeds of the exploitation and development of the national wealth within their respective areas." I take it that the word "proceeds" refers to royalties from the exploitation of the natural resources in that area.

MR. BENNAGEN: Yes, that would include also special charges and schedule of fees.

MR. SUAREZ: When we speak of the creation of an autonomous region by virtue of an organic act that is going to be passed by the legislature, are we thinking in terms of holding a plebiscite before or after the passage of the

organic act? In other words, in addition to the prior consultations with the local elective officials, I take it that the people have to be consulted about the possible establishment of an autonomous region. Will that consultation be made before or after?

MR. NOLLEDO: Obviously, the consultation should be made before.

MR. SUAREZ: Is it going to take the form of a plebiscite called for the purpose?

MR. NOLLEDO: That is possible, should Congress so decide. I have answered a similar question like this before.

MR. SUAREZ: So, before Congress would initiate the legislation which would amount to the passage of an organic act, there must first be a plebiscite called for the purpose and that plebiscite would have to be conducted in that particular autonomous region. Is that correct?

MR. NOLLEDO: I would recommend that it be so.

MR. BENNAGEN: Yes. I think some exceptions have to be made particularly in the case of the Cordilleras and the Bangsa Moro because of their historical particularities. In other words, in practice, they have been having some kind of self-determination, whatever their government's name is, except that we now call it regional autonomy, and that they have so expressed this desire in so many ways. I feel that this proposal is even going beyond the spirit of consultation and initiative. Over the centuries, they have expressed this initiative or this assertion of right to self-determination to choose their path of economic, political and cultural development. They have to be considered as exemptions; but in the future, I would imagine there will be cases of application for regional autonomy.

MR. SUAREZ: So, in that particular case of the Cordillera and the Bangsa Moro, the Commissioner will advance the proposition that there is no need anymore to call a plebiscite.

MR. BENNAGEN: That is my view.

MR. SUAREZ: So, Congress can immediately enact those contemplated organic acts.

MR. BENNAGEN: I would even plead that this Commission should declare both the Cordillera and Bangsa Moro as autonomous regions.

MR. SUAREZ: Is the Commissioner including the Bangsa Moro in that proposition?

MR. BENNAGEN: I intend to do that.

MR. SUAREZ: And for all the other regions that may have to be established and declared as autonomous regions, the Commissioner will require, as a condition sine qua non, the holding of a plebiscite?

MR. BENNAGEN: I think that is the intent of Section 9.

MR. NOLLEDO: When the Commissioner said that the people of the Cordilleras have continuously expressed their desire to set up an autonomous region, he only expressed his personal opinion?

MR. BENNAGEN: Yes.

MR. NOLLEDO: I think a plebiscite would still be necessary. Congress may require such plebiscite to make the sentiments of the people of the Cordillera official.

MR. SUAREZ: Thank you.

My last question has something to do with Section 14.

MR. NOLLEDO: Section 14 is on page 3 of Committee Report No. 25.

MR. SUAREZ: That is right. The second sentence disturbs me a little. It states:

When circumstances so warrant, the regional government may establish its own special forces subject to supervision by the national armed forces and under such provisions as the law may provide.

Does not the Commissioner see any danger lying behind this provision? We might be setting up regional warlords.

MR. NOLLEDO: The Commissioner will notice that this was taken from the Tripoli Agreement but with several conditions set forth therein. In the Tripoli Agreement there is no qualification whatsoever, but here we have the words "when circumstances so warrant, . . . subject to supervision by the national armed forces and under such provisions as the law may provide."

In the Tripoli Agreement, there is a statement to the effect that the regional government shall be authorized to establish its own special forces. In order that we may temper the fear expressed from different quarters on the setting up of such special forces, we laid down the following conditions: (1) when circumstances so warrant; (2) that they must be subject to supervision or even control by the national armed forces; (3) that they shall be subject to provisions of law that may be provided by Congress.

And the Commissioner will notice that the last sentence also states: "Such special forces shall be under the command of the President of the Philippines."

I know that there are many who are objecting to this; so we will entertain amendments at the proper time.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: Thank you.

With due respect to the chairman and members of the Committee, I beg to disagree with the establishment of special forces knowing fully well that in the Committee on General Provisions of which I am a member, the CHDF, categorized as a paramilitary unit, has been dismantled and the provision therefor has been transferred to the Article on Transitory Provisions. The activities of these special forces have led to many things which have been the subject of so many complaints including those from the human rights people, resulting in the constitutionalization of a human rights organization.

However, under the Article on General Provisions, we have what we call the citizens' armed force which may be organized in accordance with law. These are the trainees or the reserve officers in the region who may be called to active duty and may be given certain allowances, and the law will so provide for their use in the campaign against insurgency.

Also, when we talk of local police agencies here, the provision in the Article on General Provisions — and this is sponsored by Commissioner Natividad — states that there shall be a national police force which should be supervised and controlled by the National Police Commission. However, Congress may provide for whatever control there may be for the local chief executive.

The reason here is the professionalization of Police agencies. We know that the police force has the main duty of maintaining peace and order and protecting life and property. When we talk of that duty, we are talking of the lives of the 54 million people and their property.

And so, Commissioner Natividad and I felt that there is a need to professionalize our police forces if we want our lives and property to be protected by the police and if we want peace and order in our country.

If the Committee will permit, Commissioner Natividad and I will propose certain amendments on this provision at the proper time.

Thank you, Mr. Presiding Officer.

MR. SUAREZ: Is the Commissioner saying that he is with us in expressing fear and apprehension about the establishment of special forces, the functions of which are not defined definitely?

MR. DE CASTRO: Yes. I had had very bad experiences about these special forces from the time I was still a major up to the time I became a general.

MR. BENNAGEN: Mr. Presiding Officer.

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

MR. BENNAGEN: In connection with the issue on special forces, mention was made of the possibility of resurgence or even the emergence of warlordism in certain areas. I think we should look at warlordism from a sociological and historical perspective. It is not something that is easily given in any particular region, and apropos of this, I would like to read what Rene Santiago of the Philippine Institute of Environmental Planning manifested in our deliberations:

Warlordism is really a creature of our patronage politics. Whether federalism will encourage it, more or less, can only be speculated upon. What is clear, however, is that a centralized form of government forces a President or any national leader, for that matter, to rely on ward leaders whose main strengths, in turn, lie in their access to the national levers of powers; that is, their ability to lobby for largesse from above. This unholy alliance perpetuates the underdevelopment of the countryside on two counts: (1) it destroys self-reliance as it fosters dependence on external funding to develop; and (2) it does not put a premium on performance and on viability.

In addition, I would like to say that the emergence of people's organizations, the increasing political awareness and maturity of the people would be a strong antidote to the resurgence of warlordism where it originally existed, and its prevention in areas where no such phenomenon has still taken place.

MR. SUAREZ: So the ultimate resolution of this problem will be whether it benefits the people or not.

MR. BENNAGEN: Yes.

MR. SUAREZ: I am referring to the possible creation of special forces.

MR. BENNAGEN: Yes. I think we should have that foremost in our minds, that the provisions for autonomous regions should be directed towards the benefit of the people in the autonomous region and, of course, not to mention, maintaining always the complementarity of the autonomous region with the national society.

MR. SUAREZ: Thank you.

MR. PADILLA: Mr. Presiding Officer, may I just make one short statement?

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

MR. PADILLA: This is on special forces. I heard the distinguished chairman state that the Tripoli Agreement authorizes the creation or establishment of special forces. That is not exactly accurate.

The Tripoli Agreement has several items. Among them is the special regional security forces subject to discussion later on. The Tripoli Agreement does not provide or stipulate . . .

MR. NOLLEDO: I understand that the conditions under which special forces may be formed should be subject to discussion. That was made clear to our Committee by some Muslims who appeared before us.

MR. PADILLA: Yes, because when I wrote an article on the Tripoli Agreement of 1976 I had occasion to read and analyze it. There are many provisions therein subject to discussion later on. Among them is the right to set up schools. Also, the Muslims shall have their own administrative system, financial and economic system, special regional security forces, and others under Section 14. But these are not so stipulated. They are only to be discussed or considered later.

Thank you.

MR. NOLLEDO: I thank Commissioner Padilla for the enlightenment, because we were made to understand that the principle was approved but the conditions were subject to discussion.

MR. ABUBAKAR: Mr. Presiding Officer.

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

MR. ABUBAKAR: There is an apprehension in connection with this organization of special local forces. The Committee, probably, saw the need as it applies to a particular situation. In many provinces, we have the Philippine Constabulary-INP, but its police force is drawn from outside the province. Therefore, while members are there to maintain peace and order, they are not able to appreciate the local reaction — the temperament or the attitudes of the people. This could only promote misunderstanding between those who are there to maintain peace and order and the citizens who are supposed to be protected by them.

That is why in many places, in case this situation arises, many local or provincial officials would ask the national government if they can organize in their own particular province or municipality a force that would understand the situation there and the people who might be in opposition. This action will enable the people to reach an understanding with this special force so as not to create a situation of actual military clashes. This is in the interest of the people. We refer to a special force that is not to be used for a special purpose but one who understands the people because its members are from the same place and they know very well the situation.

MR. DE CASTRO: Mr. Presiding Officer.

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

MR. DE CASTRO: To allay the fears of Commissioner Abubakar, when the General Provisions will be discussed, particularly the provision on citizens' armed force and local police, it will be well-explained that when we talk of such citizens' armed force, we would refer to the reservists in the area.

The reserve officers in the area will be called to active duty pursuant to law, be given training and will serve their respective areas against insurgency. Also, there will be a national police force which shall be under the National Police Commission.

However, when we talk of the local police forces, the members would be people from the same region or from the same municipality because it is the intent that the police must be civilian in nature and in character. So, if Commissioner Abubakar has a son or a grandson who likes to be a member of the police force, he can be enlisted in the police force in the Commissioner's region. It will not be possible under our proposal that a man from Ilocos will go to Sulu to be a policeman there.

MR. ABUBAKAR: That is correct.

MR. DE CASTRO: In this proposal, a man from Sulu, a reservist, will be recruited as a policeman or as a member of the citizens' armed force to be trained and used against insurgency in that area. It will be the officer from Sulu who will lead the citizens' armed force. That is our concept when we talk of citizens' armed forces and a national police force under the direction of the National Police Commission. Of course, when one is designated or appointed as a policeman in his own area, the first thing he will do is to first pass an examination, more particularly an aptitude test. Next he has to go to the National Police Academy to train since this is really a requirement for professionalization. Moreover, all officers from an area shall be graduates of the National Police Academy in Tagaytay. Hence when someone goes to his respective municipality to serve as a policeman, he is already trained and professionalized.

THE PRESIDING OFFICER (Mr. Sarmiento): May we ask Commissioner Suarez to ask his last question?

MR. SUAREZ: Thank you, Mr. Presiding Officer; I will yield to the others after this.

MR. NOLLEDO: Mr. Presiding Officer, may I have the floor because this is very material.

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

MR. NOLLEDO: With the kind indulgence of Commissioner Suarez, I have found the Tripoli Agreement provision which states:

Special, regional security forces are to be set up in the area of the autonomy for the Muslims in the South of the Philippines. The relationship between these forces and the central security forces shall be fixed later.

That is the provision of the Tripoli Agreement as presented to us by the Bangsa Moro for the Philippine Constitution of 1986.

MR. SUAREZ: Thank you for the clarification.

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

MR. SUAREZ: May I go to my last question. Under Section 16, there are certain periods stipulated within which the first legislature is under obligation to pass the organic acts for the autonomous regions in Mindanao and the Cordillera. Do I take it that per the explanation of Commissioner Bennagen there is no need for a plebiscite before or after the promulgation of the organic acts insofar as the autonomous regions of Mindanao and Cordillera are concerned?

MR. BENNAGEN: May I answer that?

MR. NOLLEDO: Yes.

MR. BENNAGEN: There is a need for a plebiscite within the region to approve the charter. What I was saying earlier is that we would like to state explicitly in the Constitution that the Cordillera region, minus the details of its definition and its charter, and the Bangsa Moro, minus its territorial boundaries and all that, should be considered autonomous regions, without saying that the charter of the organic acts will not be submitted to a plebiscite or a referendum. This will have to be approved by the people themselves.

MR. SUAREZ: Will there be no need to call a plebiscite for those regions or political units which may be affected by the establishment of these autonomous regions?

MR. BENNAGEN: For the specification of the region?

MR. SUAREZ: Yes.

MR. BENNAGEN: There will be a need, but the concept should be there. That is why we are saying in Section 9: "all areas and populations that have distinctive," et cetera.

MR. SUAREZ: In the case of Mindanao, if we are going to exclude the three provinces mentioned by Commissioner Ople, are we not going to consult the people therein by way of a plebiscite?

MR. BENNAGEN: In the process of defining the boundaries?

MR. SUAREZ: Yes.

MR. BENNAGEN: There will be a consultation.

MR. SUAREZ: And these consultations will take the form of a plebiscite?

MR. BENNAGEN: Whatever is appropriate.

MR. SUAREZ: Would this be before or after the promulgation of the organic act?

MR. BENNAGEN: In the process it should be before, and there is that terminal act, which would then make the region acquire its juridical personality.

MR. SUAREZ: Suppose the three provinces would object, but the rest of the Mindanao areas would agree, what would be the result of the plebiscite? How would it affect the establishment or creation of the autonomous region?

MR. NOLLEDO: An identical question was asked by Commissioner Davide a few hours ago, and my answer was that, personally, without binding the Committee, it should be considered as a whole, but there is an amendment on how to resolve such problem to be presented later on. As far as I am concerned and following the democratic process, the entire region should be bound by the majority rule.

MR. SUAREZ: That means if the electorate in the three provinces would be more than the electorate in the autonomous region.

MR. NOLLEDO: Then the organic act cannot be granted because as a whole the voters from the three provinces will defeat the need for a majority of all the voters within the region.

MR. SUAREZ: Is that the official position of the Committee?

MR. NOLLEDO: That is my interpretation now, but I understand that there will be an amendment to be presented later on.

MR. SUAREZ: Thank you.

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

ADJOURNMENT OF SESSION

MR. ROMULO: Mr. Presiding Officer, in view of the time and the fact that we still have many registered interpellators, may I move to adjourn until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Sarmiento): Is there any objection? (Silence) The Chair hears none; the session is adjourn until tomorrow at nine-thirty in the morning.

It was 6:32 p.m.

[*] Appeared after the roll call

[*] See Appendix

[*] See Appendix

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