

R.C.C. NO. 59

VOL. III, August 18, 1986

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/31f14c8330f3/>

Monday, August 18, 1986

OPENING OF SESSION

At 9:56 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 Hilario G. Davide, Jr.

Everybody remained standing for the Prayer.

PRAYER

MR. DAVIDE: Almighty and eternal God, through Your Son Jesus Christ, You said:

Ask, and it shall be given you;
Seek and you shall find it;
Knock, and it shall be opened to you.
For everyone who asks, receives;
And he who seeks, finds;
And to him who knocks, it shall be opened.

During the past seventy-seven days of our sacred work to write the fundamental law, we had asked for Your guidance; sought Your wisdom; knocked at Your heart for love not only here but everywhere, during waking hours or sleeping moments, in the quiet of aloneness or in the midst of noise.

You never failed us. Your patience was endless.

As the end of our work draws near and the issues become more complex and complicated, debates more intense and evenwinded, we need You more.

We need You for strength to walk the last mile; for courage to resist pressures and the intimidation of the crowd; for humility to accept defeat of our pet proposals; for patience to listen to the words of others; for peace of mind and soul.

Above all, we need Your wisdom; so that the Constitution we shall prepare will come from You — and no one else

— for the Filipinos of all generations to love, cherish and share.

Be with us then always. Amen.

THE PRESIDENT: May I call the attention of our Commissioners and everybody in this hall that we are starting today the celebration of Peace and Freedom Week under the auspices of the Ninoy Aquino Movement and SERVE. And so, let us all join in expressing the hope that peace and freedom will always reign in our country, in our communities, in our families and homes, and also here in this august assembly.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present Nieva Present

Aquino Present[*] Nollado Present

Azcuna Present[*] Ople Present[*]

Bacani Present Padilla Present

Bengzon Present Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present[*]

Brocka Present[*] Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Absent

Concepcion Present Sarmiento Present

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present[*] Tadeo Present

Gascon Present Tan Present

Guingona Present[*] 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 37 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: 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 last Saturday's session? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF THE JOURNAL

MR. CALDERON: Madam President, I move that we approve the Journal of last Saturday's 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 Ms. Pearl Gunzon and sixteen (16) others, all from U.P. Diliman, Quezon City, proposing the following: (1) that elective local officials will have a six-year term; (2) that they be allowed to seek reelection or to run for other elective positions only after a six-year term has been served by a successor; and (3) that first-degree relatives of elective officials be disqualified from running for elective positions after the expiration of their term.

(Communication No. 568 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Communication from the Mindanao Movement, signed by its Chairman, Epimaco M. Densing, Jr., urging inclusion in the Constitution of the following proposals: (a) that election to public office should not involve any expense whatsoever on the part of the candidates, political parties, voters and others, except on the part of the government, and (b) that in the administration of justice, litigants should not incur any expense in the procurement and/or availment of anything which may affect a just and fair decision.

(Communication No. 569 — Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Edmundo H. Fulleros of Buhang, Bulusan, Sorsogon, urging the dismantling of the two U.S. military bases come 1991, and thereafter, no foreign military bases be allowed in our country.

(Communication No. 570 — Constitutional Commission of 1986)

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

Position paper of the Association of Baptist Churches in Luzon, Visayas and Mindanao, Inc. 32 Road 2, Project 6, Quezon City, signed by its Chairman, Rev. Edwin T. Ormeo, supporting the retention of the provisions upholding the principle of the separation of Church and State in the new Constitution of the Philippines.

(Communication No. 571 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from the Philippine Association of Colleges and Universities (PACU) signed by its President, Ms. Josephine C. Reyes, submitting proposed amendments on the resolution incorporating in the Constitution an Article on Education, Science, Technology, Sports, Arts and Culture, embodied in Committee Report No. 29.

(Communication No. 572 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Benigno Jaleroso of Camiling, Tarlac, expressing concern over the proposed creation of the Cordillera and Muslim Mindanao as autonomous regions, saying that this might lead to the creation of other autonomous regions like the Ilocos region, Bicol region, the Southern Tagalog provinces, and others.

(Communication No. 573 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Faustino Ruivivar, Jr. of Every Home Crusade Philippines, Inc., P.O. Box 50, Valenzuela, Metro Manila, recommending that the provision of the 1973 Constitution on the separation of the Church and State be incorporated in the new Constitution; that the teaching of religion in the public schools should be optional and without cost to the government; and to allow the U.S. military bases to remain after 1991.

(Communication No. 574 — Constitutional Commission of 1986)

To the Steering Committee.

Communication with seven hundred seventy-seven signatories with their respective addresses, 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. 575 — Constitutional Commission of 1986)

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 496

(Article on National Economy and Patrimony)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Up for consideration this morning would be the resolution to incorporate in the new Constitution an Article on National Economy and Patrimony, and also later in the morning we propose that we take up the resolution on the Article on Local Governments.

Madam President, in view of the motion for the reconsideration of Section 1 of the Article on National Economy and Patrimony, I move that we take up for consideration the Article on National Economy and Patrimony.

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

The body will proceed to continue the discussion on the Article on National Economy and Patrimony. The Chair requests the honorable Chairman Bernardo Villegas, Vice-Chairman Jaime Tadeo and the members of the Committee to please occupy the front table: Commissioners Gascon, Bennagen, Romulo, Monsod, Sarmiento, Bengzon, Jr., Maambong, Suarez, Uka, Bacani, Natividad, Foz and Villacorta.

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

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Madam President, under our Rules, a motion for reconsideration has to be voted upon before the proponents can suggest amendments. May I, therefore, propose, in fairness to the proponents, that they be given a chance to explain the basis for which they are seeking a motion for reconsideration of Section 1 so that when the Commissioners vote, it will be meaningful. I believe it is necessary that the proponents do so because we have discussed in detail and at great length all the major concepts involved in Section 1; namely the concept of a mixed economy with the private sector predominating, the concept of industrialization, the concept of protection against unfair foreign competition and, finally, the concept of a broad-based ownership. These have been discussed in the Committee, on the floor, and in caucus. Inasmuch as these have taken place, the proponents for a motion for reconsideration, in a manner of speaking, have the burden of proof to show that their request for reconsideration is meritorious. That is why I believe that in fairness to them, we should allow them some latitude in explaining their position on why they are requesting a motion for reconsideration as well as for permission to amend Section 2.

Thank you, Madam President.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: I understand there are three or four Commissioners intending to propose amendments or to say something on Section 1. I move that they be allowed to finish their comments and explanations first before the interpellations for order and facility.

Thank you, Madam President.

THE PRESIDENT: The motion is granted.

Who will be our first speaker today?

MR. RAMA: I call on Commissioner Sarmiento to be the first speaker on the motion for reconsideration.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, members of the Committee and my fellow Commissioners, I rise this morning to express my reservations and apprehensions with respect to Section 1.

With due respect to my Committee, to the members of the Committee and to the Members of this august body, allow me to share with everybody the reasons for my reservations and apprehensions. The fundamental objection to this section is that it constitutionalizes the development philosophy prescribed by the IMF-World Bank group. This means that the Constitution will stand committed to a development philosophy characterized by the following components:

- 1) minimal protection for domestic industries with an economy liberally opened to import competition; and
- 2) an industrialization program characterized by an emphasis on industries geared to foreign markets and based on exploitation of the nation's agricultural resources and cheap and ample labor supply.

In essence, the new Constitution would incorporate the notorious labor-intensive, export-oriented development strategy which the IMF-World Bank group imposed on the Marcos government, and which has been adopted by the Aquino government in the guise of the economic recovery program. Far from accomplishing a self-reliant and independent national economy, which the section proposes in its opening sentence, the mandate and directive embodied therein will operate to perpetuate an import-dependent type of industrialization and industrialization based on exploitation of our agricultural resources and labor supply and which is geared to the agricultural markets.

Furthermore, Madam President, the section by necessary implication, commits the State to a policy of protection only in those cases where foreign competition is proved unfair, obviously rejecting the motion that the domestic market should be preserved and secured for domestic industries as a matter of principle irrespective of whether or not import competition is fair or unfair. Operatively, this means a policy of minimal protection for domestic industries. This development philosophy has not only been proven a failure in the Philippines but also elsewhere. The Economic and Social Commission for Asia of the United Nations (ESCA) has been reported to have made a survey which disclosed that the labor-intensive, export-oriented development strategy has been proven a failure in virtually every developing country where it has been tried. As a matter of experience, we know that such a strategy has been a failure in the Philippines. This statement challenges the Committee on the National Economy and Patrimony to deny that what has been intended by this section is to incorporate the failed labor-intensive, export-oriented approach to development into no less than our new Constitution.

Our assessment of the subject session must be undertaken from the perspective that a policy of intense protection for domestic industries not only through tariffs but also and more emphatically through direct and outright control of our imports is not only necessary but indispensable to the development of an independent and self-reliant economy. Such a rigorous protectionism continues to be practiced even by highly developed states, the most notorious of which is Japan. Under such a policy, protection to domestic industries is extended regardless of whether or not import competition is fair or unfair.

Madam President, my thoughts and reflections this morning are best stated by our esteemed colleague, Commissioner Jose B. Laurel, in his sponsorship speech of the Magna Carta of Social Justice and Economic Freedom in 1969, otherwise known as House Joint Resolution No. 2. He said in his sponsorship speech:

Many of our social problems stem from an archaic economic structure that is unable to meet the employment requirements of 37 million people, growing at a rate of almost 3.5 percent a year. It is an economic structure marked by the conspicuous absence of significant manufacturing capabilities and dependent mainly on agricultural pursuits as the largest source of the country's income and employment opportunities. Only by industrializing the economy through the establishment of basic industries, particularly those that will utilize indigenous raw materials, can we hope to resolve the perennial problem of mass unemployment and marginal incomes that haunt the lives of our people.

Speaking of protectionism, he remarked:

If we are to induce Filipino capitalists to invest in desirable industries, we must assure their products of an effective and controlling share of the domestic market. All other considerations are secondary. And we can assure our entrepreneurs control over the domestic market for their products only if they are effectively protected against foreign imports. This is the primary purpose of tariffs and of import and foreign exchange restrictions.

I would like to close by quoting the words of a man whom we honored a few days ago. I am referring to former Senator Lorenzo Tañada, who said:

It is only economic nationalism, sustained by solid substance in the form of control by our own entrepreneurs of the basic industries and facilities all over our broad land, which will ensure the achievement of a lasting and effectual solution to the problems of mass poverty, high cost of living and increasing unemployment. It is the only philosophy of economic development which will insure for us and perhaps, for our region, the permanence of individual freedom and parliamentary institutions.

Thank you, Madam President, and I thank the Chairman and the members of the Committee on the National Economy and Patrimony.

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

MR. TADEO: Madam President.

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Kaisa po ako sa sinabi ni Commissioner Rene Sarmiento. Gusto ko lang basahin sa inyo ang sinabi ni Alexander Padilla doon sa promotion of Church People's Response, Philippine Society in Perspective, a National Situationer, tungkol sa economic protectionism. He says on page 2, paragraphs 2, 3 and 4 thereof:

In 1909, the United States forced the Philippines into an economic relation called the "free trade." Essentially, this meant that our government will be prohibited from imposing any tariff, and other restrictions on American goods exported to the Philippines. Free of tariff and duties and without limit, cheap manufactured goods flooded the Philippines. More than any single factor, this law which forced our agricultural economy to trade freely with a highly industrialized America entrenched and solidified the colonial pattern of our economy. Our country became an exporter of raw materials and a consumer of finished products. This inhibited our manufacturing and industrial sectors from expanding since it was highly prohibited to compete with imported, cheaper and better quality manufacturers. This free trade policy, to this date, is still being practiced through its modern and various guises such as the decontrol program of 1962, the floating rate of 1970, and through most of the entire period of martial law, the export-oriented, labor-intensive development strategy introduced in 1972 at the behest of the International Monetary Fund-World Bank financial institution.

It is significant to note that over 200 years ago, when the United States had just fought and won their independence from England, this very theory of "free trade" espoused by Adam Smith was itself repudiated by the newly born democracy through US Finance Minister Alexander Hamilton. The simple reason being that a country to be strong economically must be capable of producing its own means of production and industries. With free trade, a developing and agricultural country (like the United States then) would be flooded by cheap imported manufactures and thus hinder her from developing her own industries.

Unless such a country begins to impose tariffs and quota limitations on imports, encourage domestic industries through subsidies, she would forever remain an agricultural country dependent on her industrial partner(s) for essential imported materials. By practising protectionism (then known as mercantilism), the United States became not only industrialized but even the most powerful country in the entire world, fast outpacing its colonial mother country, Great Britain. To this day, the United States practices protectionist policies by

imposing tariffs, quota limitations and other measures to prevent the influx of cheap imported products; but ironic as it may seem, through her controlled international financial institution(s), she imposes the policy of an open economy on developing and highly agricultural countries and thus perpetuating countries like the Philippines a perennial market for manufactured goods and a cheap source of agricultural products, foodstuffs and raw materials. The United States would grant us loans provided that we keep our economy open to imports and foreign investments, and not restrict the remittance of profit and outflow of capital. In other words, free enterprise was practiced on a global level with developing countries simply treated as markets. In essence, this established a neocolonial relationship and a Third World country that stagnated in the semifeudal backward, agricultural economy.

Ninana is po namin sa Section 1 ng Article on National Economy and Patrimony ang self-reliant and independent economy under the effective control of Filipinos kaya nagkaroon kami ng motion for reconsideration. Gusto naming ang Constitution na gagawin natin ay mag-uutos mismo ng tariff and nontariff protection sa domestic industry.

THE PRESIDENT: Who is the next speaker?

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

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, we appreciate the decision of the Chair to reopen the discussions on the basic premises and philosophy of the Article on National Economy and Patrimony which is the basic foundation of the new social order that our Commission is trying to introduce. I am also thankful that our fellow Commissioners are willing to listen to new arguments which were generated by the newly amended section, meaning the first section of this Article.

Madam President, although there were some incidents in the past week that clouded the position paper that was presented by the Coalition for Constitutional Provision on Industrialization, Economic Protectionism and Filipinization of the Economy, I submit that we cannot ignore this position paper because it was given by a broad-based coalition in which different sectors were represented — labor, farmers, cause-oriented groups, youth organizations, business organizations, industry associations, the private business sector, and the local governments. No less than Justice J.B.L. Reyes, Raul Concepcion, Ramon Tuazon, Felix Maramba, Aurelio Periquet, Honorable Bren Guiao, Honorable Jejomar Binay, and several other known personalities were signatories to this position paper. Of great significance is the Philippine Chamber of Commerce and Industry's participation in this position paper. I believe that since we are a deliberative body committed to hearing the opinions and recommendations of all sides, I think the paper should be heard. It says that the signatories have a particular reason for making their appeal. There are powerful forces that have vested and historical interests in seeing our country preserved as a nonindustrial economy. As long as industrialization and economic protectionism are not elevated to the status of constitutional mandates, these forces will continue to succeed, as they have long succeeded, in suppressing our industrialization.

The position paper further states, Madam President, that the central question is whether we wish to remain a nation of importers, compradors, and consumers, or do we wish to transform ourselves into a nation of producers? The truth is that we have no choice, if we are to survive with dignity, but to transform into the latter. But we cannot do so unless we industrialize.

I would just like to highlight the fact that this is the demand of local business organizations and our own businessmen who are beseeching the Constitutional Commission to give them the necessary protection. And we know from history, Madam President, that the more protectionist a country is, the better its capacity to engage in

international trade, the reason being that protectionism generates the necessary economic activity and motivation to increase production and to improve the trade capacities of domestic economic and business entities.

The Honorable Villegas, during the caucus, said that this humble Representation should read closely the debate on the textile bill in the United States. And I would like to quote from Asiaweek, issue of August 17, which summarized the developments that followed the defeat of the Jenkins bill, and I quote:

Jenkin's defeat left intact MFA-4 (and this refers to the Multi-Fiber Arrangement, which is a protectionist measure to protect the American textile industry). The pact will set standards for bilateral agreements and unilateral restrictions on textile trade among contracting parties for the next five years. Aside from the present cotton, wool, and synthetic fiber goods, it will control yarn, fabric and apparel made of blends containing silk, ramie, linen, jute, and other natural fibers, a U.S. demand. In the future, quotas may be imposed on an item if the value or weight of its natural fiber content is more than half its price or weight.

What I am trying to point out, Madam President, is that despite the defeat of the Jenkins protectionist bill, protectionism as a matter of state policy continues administratively and in all aspects in the United States, precisely because the developed countries as well as the newly industrialized countries are all protectionist. I would also quote from an Appendix which an economist, Dr. Romeo Bautista, and I included in our joint monograph. It is a listing of protectionist measures imposed by Japan on products of export interest to the Philippines. This is page 111, Appendix 4 of the book Asian-Japan Relations, Trade and Development. And in four pages were listed numerous protectionist measures imposed by Japan on the products of the Philippines. The source is the NEDA Subcommittee on GATT matters. I shall have this xeroxed, Madam President, for distribution to the Commission.

It might also be mentioned, Madam President, that in our age of protectionism in the 1950s, local industries took off significantly. I would like to quote from the World Bank report on the Philippines, December 1963:

The progress of the Philippine economy during the decade of the '50s was one of the more impressive records of economic gains among the less developed countries.

I repeat:

. . . one of the more impressive records of economic gains among the less developed countries.

In more recent years, the conditions for expansion have been less buoyant and the pace of economic growth more sluggish than during the decade. Toward the end of the decade, over-expansion was becoming evident in some lines and the system of controls was creaking from various abuses and administrative difficulties.

The system was replaced in 1959 by a gradual decontrol program, involving rising exchange rates which culminated in 1962 in a virtually unrestricted trade and free exchange. This marked increase in the peso costs of exchange over this period was undoubtedly an important factor in the sharp sag in industrial profits. The expansion of manufacturing slowed down, and with it, the growth of the economy as a whole.

This report of the World Bank illustrates that as a result of decontrol, there was a marked increase in the peso costs of exchange which was undoubtedly an important factor in the sag of industrial profits.

I do not need to read from the entire report because I know time is limited. I shall have this xeroxed also for distribution to the Commission for purposes of record.

Suffice it to say, Madam President, that when the U.S. government and other governments restricted the importation of items like textile, steel and cars into their economy, they do so irrespective of whether the foreign competition is fair or unfair; that the primary, if not the only, criterion is that imports stunt the growth of domestic industries which are sources of employment. In fact, the whole point of protection is to restrict imports in order to

give domestic industries a controlling share of the domestic market.

When one, for example, imposes a protective tariff, that tariff applies on an absolute basis, and is not selectively applied only to such imports as this represents unfair competition.

The fundamental flaw in the subject section, which is Section 1, is that by constitutional mandate, it would limit the protection of domestic industries only to cases where unfair competition is deemed to exist. By necessary implication, it ties the hands of the State, and would preclude or inhibit it from protecting domestic industries for reasons other than unfair competition.

There is nothing novel about protecting domestic industries from unfair import competition. One does not have to elevate it to a constitutional principle except where the intention is to confine the State's power of protection to such cases only which seem to be what the section intends. If so, then the subject section would constitutionally mandate a policy of minimal protection. Furthermore, by experience, we know that applying protectionist measures in cases of unfair competition is a process which entails considerable administrative difficulties. Unfair competition must be proved by the party invoking the government's protection which is not easy to do.

Antidumping cases, for example, are difficult to establish and time-consuming. And dumping is one of the more familiar modes of unfair competition.

Lastly, Madam President, we beg to disagree with the statement of the Honorable Villegas that the constitutional mandate that protects local industries and businesses against foreign competition would discourage imports. I have named the protectionist countries, such as Japan, South Korea, even the United States, but they have importations. So, there is necessarily no direct correlation between protectionism and the ban against imports.

Thank you very much, Madam President.

THE PRESIDENT: May we have the next speaker?

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

THE PRESIDENT: Commissioner Garcia is recognized.

MR. GARCIA: Thank you, Madam President.

What deeply disturbs us is that, as worded, the section in question virtually leaves the government under no mandate or directive whatsoever to apply direct modes of protection, even if such modes exemplified by outright import controls have become obviously necessary. This is exactly the problem which the industrial sector faces. The government under IMF prodding would limit and confine its protective action to tariffs which are ineffectual and may easily be circumvented when what the objective condition dictates is that the government avail of all protective weapons, particularly direct import controls which virtually every government in the world today practices.

What the new Constitution should mandate is that protection should be extended to domestic industries regardless of whether or not foreign import competition is fair or unfair. And that the State should not confine its act of protection to any one particular mode or method of accomplishing it. Why should this be? This should be so because what we are really protecting in protecting domestic industries is the domestic market itself. That market is an integral part of the national patrimony because it is the ultimate source of wealth. It is through the market, through the profits that one makes from the market, that capital accumulates and expands.

Unless domestic industries are able to control the domestic market, capital expansion and accumulation will be severely restricted and impaired. This is why the most progressive economies in the world today are economies

characterized by a policy of intense protectionism, chief among these being Japan and the new tigers of Asia; namely, Taiwan and South Korea.

Communist China has a closed market, having closed it since the advent of the communist revolution in 1949. That is why it is now a highly industrialized state, having accomplished the status within a period of less than forty years.

In the case of the Philippines it is proven and established that it was during the import control decade of the 1950s that the economy experienced rapid strides towards industrialization with unprecedented growth rates. This has been confirmed by no less than the World Bank itself.

It is very important in this Article on National Economy and Patrimony that we defend basically our sources of wealth as a nation, our natural resources including the domestic market which is a source of our wealth as a people. In many countries of Southeast Asia (SEA), there is very strong pride and effort to protect the resources of one's nation. We, Members of the Commission, should not find ourselves on the defensive when we are protecting our very wealth, our very resources as a nation. And I think this is what is mandated of us at this moment. These Sections 1 and 3 are precisely the reasons for our effort to reopen the debate. We should be very clear that we only have one market. If we do not protect the Filipino market, who else will? Those of us who have had experience with other nations, other governments, other economies, realize that it is basically the responsibility of the nation, of its people to protect their market. And yet here we have to find ourselves on the defensive when we are protecting our very own natural resources and our very own market which, in the last analysis, remain the basic source of our wealth as a people. And in the face of what we have just discussed, especially in the Article on Social Justice, we realize more and more now that all our efforts to bring about social justice will come to naught unless we, at the same time, have a strong, self-reliant, self-sustaining, productive economy. And this is our appeal to our companions, our colleagues in this Commission, that we should come together and close ranks in the protection of our own economy, our own market and our own natural resources because they are the only ones we have.

Thank you very much, Madam President.

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

THE PRESIDENT: Commissioner Brocka is recognized.

MR. BROCKA: Thank you very much.

I just have to speak up, Madam President. When Commissioners Villegas and Monsod explained to us the provisions in the Article on National Economy and Patrimony, we listened.

As a matter of fact, we had caucuses to discuss it where they explained it to the laymen, particularly the noneconomists in the Commission. The explanations that were given were all on record. I wish I could take their word for it. I am not an economist; definitely I am not versed in economics. As a matter of fact, I must make a confession that I did not prepare for this Article. I was concentrating on the work of the Committee on Social Justice to which I belong, particularly on arts and culture, which we were expecting to be discussed this week. As I said, I wish I could take their word for it, but something bothered me and I spent an agitated weekend thinking about all the explanations. Last week, when the coalition of businessmen presented their paper, I read it and I thought their espousal of industrialization, protectionism and economic nationalism made sense. Last week also, when we were arguing for the percentages of 60-40 — where from 100-percent Filipino control we went down to 60-40 and then there was another proposal for 2/3-1/3 and it lost — a Commissioner said that it was ridiculous that we were fighting percent for percent in going down and that probably, since 66 2/3 percent or 2/3 lost, we will go

down to 65 percent. I wanted to answer and say that it was not ridiculous, that it was pathetic that we were fighting inch by inch, percent for percent, and that it did not matter whether it was one percent or .5 percent. The point is I found it pathetic that we were fighting for one percent more in favor of less control of foreign capital insofar as Filipino business is concerned. And so, this morning I would like to speak and add my two-cents' worth not as an economist but as a film maker. I am not an economist; I do not know the ins and outs of economic theory and practice, but I am trying to understand the proposed provisions in the Article on National Economy and Patrimony from the point of view of the ordinary and average Filipino layman.

As a film maker, I have had dealings with both the State and private enterprise. The State has censored my films, and because of that I would naturally be opposed to restrictive, repressive and oppressive state intervention in the affairs of the film industry. I also do not want the State to be producing movies, especially the pornographic movies that the Experimental Cinema of the Philippines used to do, because the censorship-free and tax-free movies provided unfair competition to local movie producers. However, I would not be opposed to the State providing grants, subsidies and tax incentives for the making of quality movies that the commercial movie industry would not venture into by itself.

But I have also worked for private enterprises; that is to say, the movie producers, the capitalists in the movie industry. And I know from experience that the movie producers are left to themselves as a general rule. They would be doing nothing but sex and violence movies because that is where the money is. They do not care about social responsibility, the common good, the preferential concern for the poor and the underprivileged. All they care about is raking in as much as they can in the form of profits.

The point is that we are not proposing state capitalism, socialism or communism, but at the same time, I do not want unscrupulous capitalists running roughshod over the rest of the impoverished population. There should be some form of state regulation to balance the legitimate business demands of private enterprise with the urgent social needs of the poor.

One of the criteria in appointing the Members of this Constitutional Commission was nationalism. In the Philippine context, I would expect nationalism to mean preferential concern for Filipinos — giving Filipinos a better deal in their own country. However, from what I have read and heard so far as a Member of this Constitutional Commission, I get the impression that we are paying lip service to nationalism and, at the same time, making it extremely difficult for Filipinos to survive in their own country.

The Ople amendment is so vaguely and ambiguously worded that it seems to be taking with the right hand what it is giving with the left hand. For instance, it proposes "unfair foreign competition; but let us face it, the Philippine economy is in such a terrible state right now that any form of competition is bound to be unfair. If we allow cheap foreign sardines from Taiwan to come in without limitation, we will be driving our own fishermen out of business. If we allow cheap rattan furniture from Korea to flood the domestic market, we will ultimately be killing our own furniture industry. Sure, we will be getting cheaper goods in the short run. This was what Commissioner Villegas said: "Fifty-five million Filipinos will be buying cheaper imported goods." That should make consumers happy. That should make everybody happy, but let us not forget that consumers are also producers of goods. When the fishers can no longer fish and furniture makers can no longer make furniture, they would not have any money to buy anything, not even cheap foreign goods. They will have no income, and they and their children will go hungry; and very soon we will be faced with more poverty than we started out with, and more mass unrest.

The domestic market should be considered an integral part of the national patrimony. It should be preserved for Filipino producers who should be protected by direct and indirect measures from all forms of foreign competition. We have heard all these arguments before — that foreign investments and foreign loans are good for the economy.

In the past, we constitutionalized parity and investment incentives, service contracts and other things that allowed foreign control of our economy. We have had all that before, but to echo Commissioner Tan's question last week: "Why are we still so poor?"

So, Madam President, this is too much to bear and I plead with this august body for a reconsideration of Section 1 of the Article on the National Economy and Patrimony.

Thank you very much, Madam President.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: Thank you, Madam President.

Members of the Commission, I also would like to express some of my own thoughts. I did not prepare any position paper but this is just a reflection of what I had gone through after last Friday's session. I recognize that there are so many people here waiting probably to hear the discussion on the Article on Local Governments. Our Muslim brothers and sisters here probably want to know the fate of the autonomous region for the Bangsa Moro people. But I think it is just as important for them to know just what our position is on the issue of national economy which is vital not only for the Bangsa Moro people but for the rest of the country.

During the weekend it appeared in the papers that two of us revealed or commented to the press people who heard us during that encounter shortly after we voted unanimously for Section 1 that we did not realize the impact, the real import, of what we had approved, because after having gone through the caucus, I thought I fully understood when I listened to our experts in the Committee. Considering that I am not an economist — I am from the health sector and I have not gone through any rigorous course in economics — on my part it was plain understanding of an ordinary housewife, an ordinary citizen.

So when the people who felt very strongly about this came over — and with reasons I suppose because it meant something very important to them — I had to think. We have heard people in the public hearings, but we have not really come across such a broad coalition that wants to let us know its position at this point in time. Maybe the time when we had the public hearings, our Members have not realized the impact or the import of what we will provide in the Constitution. So when they came asking us to give them due hearing, we said that we cannot do that because it might open the floodgates to many people coming here and asking us to listen to them also. But we did open our session hall; the women's group came over here, had their scroll presented to us, and we had a picture taking with them. They came down to our desks and everybody entertained the lobbyists, as we call them.

For the pro-life people we had a special time; they herded us from the lounge to listen to them and to sit through their presentation. When the Cordillera people came in their G-strings and costumes and all that, they came knocking at our hearts to listen to their plea for an autonomous region, so did the Bangsa Moro people.

But when the businessmen who felt very strongly about these sentiments did come, I think we did not give them just as much time as we gave others. As a matter of fact, it resulted in that kind of reaction — heated exchanges. But I suppose that they have just as much right to come and appeal to us because what we will be putting down in this particular section and article will mean a big difference on whether they are going to survive in their own land. And I also felt, as a member of the Committee on Social Justice, what good all these provisions on social justice will do, if there will be no mass employment and no economic recovery?

So, even among us who pride ourselves in having accomplished something, we will not really find any translation or implementation as long as we remain poor. But why do we remain poor? I think all of us have heard the

arguments of why we remain poor in spite of all the wealth or richness of our country.

I believe that we know how it is when the Members of this Commission have set their minds to. It is very easy to just vote down an article especially if they are convinced that theirs is the right decision. But who is to say that theirs is right and ours is wrong? I think we have often asked ourselves: Are we responding to the people's needs? And who are these people that we should respond to? Are these the people who come here and really present their plight? Are these the silent majority, or are these just a few people who come to us and ask us to pressure the body for the passage of a provision? So I feel that even if it is a losing battle — I have realized that in this Commission, it is a numbers game — I would like to put on record what I have gone through agonizingly, realizing that probably I made a mistake in having voted for Section 1.

The people who signed this resolution have so rationally presented this to us so that it would become part of the Journal of this august body. I think that all of us have copies of this. We have seen this published in the newspapers. Since it has not been fully registered in the Journal, I would like to go through some of the important points which convinced me that probably I really did commit a wrong to the people who have wanted so much that economic protectionism, Filipinization and industrialization be the pathway, the underlying direction for our national development. So I will start with the points that they have so strongly stated:

Only through a full and rapid industrialization (of our economy). . . can we create, in a massive scale, the work opportunities that will absorb the millions of unemployed and underemployed; (the unemployed who have to go to different countries to sell themselves, their labor power, even their bodies, to work in many other parts of the world, and the underemployed here who have to work just to survive day to day), and that corollarily, only by a rigorous system of economic protectionism similar to that in force in virtually every nation in the world, both the developed and newly industrialized countries, can we foster the industrialization of this country.

We specifically refer to the recent study of the political economist, Alejandro Lichauco. Copies of that study have been distributed to the Members of the Commission along with this letter that they have sent us.

Industrialization and economic protectionism, as an indispensable means to industrialization, are of vital importance and urgency to warrant their incorporation in the new Constitution.

If social justice is significant enough to be incorporated into the Constitution as an objective of state policy, with more reason should industrialization and economic protectionism be similarly incorporated.

There can be no meaningful program of social justice as long as mass unemployment exists, and as long as our economic system is unable to generate massive work opportunities, which it can only do through industrialization. History has shown no other way.

They have a particular reason for making this appeal; and this is — I think this has been mentioned already by Commissioner Villacorta — that the industrialization of this country has been delayed far too long. They continue:

Unless we industrialize, by the end of the century, which will come in less than 15 years, we will be the most backward and the most impoverished nation in Southeast Asia. And the most exploited. Every nation in Asia is fast industrializing.

To cut down on time, I move, Madam President, for the inclusion of the coalition's petition (the entire document) in the registered communications in the Reference of Business to be part of the Journal, so that future generations will read what the businessmen, workers' group, consumers' group and the rest of the ordinary citizens of the land had said to the 48 Members of this Constitutional Commission. I share with them this concern, so I say that if what they say will be the implication, then I do not want to be a party to this kind of provision which we have just approved last Friday.

Thank you, Madam President.

MR. GASCON: Madam President.

THE PRESIDENT: Before we proceed further, may the Chair just react to a portion of the statement of Commissioner Quesada that we failed to entertain or to recognize the group of businessmen that was here last Friday.

There was a recess then when a group — I cannot remember exactly who were there but I remember Charito Planas was there — called my attention to a newspaper publication, an open letter addressed to me. And I informed them that I have received a copy and that, in fact, I have caused copies of this newspaper publication to be distributed to all the Commissioners. Then when we resumed our session — we were in regular session breaking all tradition and rules, I believe, of a parliamentary assembly requiring the President to refrain as much as possible from participating in any discussion — the Chair, on my own initiative, called the attention of Chairman Villegas to the publication, to that open letter and I even showed him a copy of that letter. The Chair inquired from Commissioner Villegas whether the allegations and statements made in that letter were considered in the preparation, in the discussion and in the finalization of the report, because the ideas there are not new; actually, as stated, they are old ideas. And Chairman Villegas said that they were considered.

And so, it is only on that point that the Chair wants to clarify to our guests that there has never been any attempt on the part of the head of this Commission to deny anybody. In fact, I had been criticized because I have been quite liberal; I have allowed people to occupy portions of this building to express their views. Individuals and groups have been welcomed but, as stated in our resolution, we also have to respect the dignity of our proceedings.

And so, I just want to assure everybody here that everybody is free to come, discuss and submit their proposals but within the Rules of the Constitutional Commission.

Thank you.

MS. QUESADA: Thank you very much for that information, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

SUSPENSION OF SESSION

MR. SUAREZ: May I ask for a two-minute suspension of session, Madam President.

THE PRESIDENT: The session is suspended.

It was 11:03 a.m.

RESUMPTION OF SESSION

At 11:08 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Thank you, Madam President. I will be very short.

For the reasons and interpellations already expressed and without prejudice to further elaboration of the points raised, pro or con, and the other points which may also be raised, I believe that we should continue our discussion on the floor on this crucial issue of Section 1. I hope the body will agree to a reopening and reconsideration of its approval that all the issues will be expressed and all the points will be raised.

From my own point of view, I believe that what is involved here is basically a question of economic sovereignty. We really have to go into a further discussion of our concept of industrialization, protectionism and degree of participation of the people, and I hope that we will come into some agreement as a whole body.

I think Section 1, as approved, operates to curtail the sovereign power of the State to protect its most important economic resource, the domestic market for the nation's output of goods and services. We cannot stress the supreme and paramount importance of the issues raised by our fellow Members and colleagues in this Commission, and our people will never forgive us should we fail to give this subject the thorough and extensive deliberation which it deserves. So, I would like to reiterate the request.

Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, first, I would like to make some general statements presenting a framework through which members of the Committee and the one who proposed the specific amendment, Commissioner Ople, can follow me. Taking the lead from a very important question asked by Commissioner Quesada, "Who is to say who is right?" in the specific question, I would like to remind all in this body that economics is a very inexact science, and I think all of us have been witnesses to its inexactness. As I said in one of the debates concerning the bicameral versus unicameral form of government, in trying to define the common good and especially in this specific case, there is always a mosaic of legitimate vested interests that have to be recognized. And the most serious error in economics, in fact, in all of political life, is never an absolute falsehood but an oversimplification, being obsessed with partial truth and equating it with the whole truth.

Now, the Committee could have been perfectly within reason if it insisted on its original view that all these requests for industrialization, protectionism and economic nationalism could have been completely subsumed by the original statement that all economic sectors shall be given optimum opportunity to develop. In the spirit precisely of constitutional language being as succinct as possible, we could have insisted on that view that all of the very legitimate requests from legitimate vested interests and policy-oriented views that we are getting would have been sufficiently covered by that omnibus statement that all economic sectors shall be given optimum opportunity to develop. But precisely in the spirit of reconciliation, in the spirit of open-mindedness and accommodation, we agreed to risk the danger of introducing policy-oriented terminologies into the Constitution. And let me set the record very straight. All the arguments that have been presented by our esteemed colleagues have been eloquently stated and summarized in one of the public hearings by probably one of the most convincing proponents of protectionism, nationalism and industrialization, Economist Hilarion Henares. I am sure the committee members will attest to the fact that he made a presentation to the whole Committee. And we heard all

the views that have been presented today. Again, let me set the record straight — Mr. Henares is one of the most eloquent proponents of the views of the coalition; and he was given full hearing by the Committee.

Now, let me make it very clear that when we decided, precisely in the spirit of open-mindedness, to introduce a word like "protect," we were clearly including the definition of protection, quota restrictions, tariffs, non-tariff, subsidies, the whole works, as the legislature will see fit. And I do not think there is any quarrel about the sovereignty of the Philippine government to introduce any form of protection that it may deem due.

Just to give the body a very graphic example of the dangers of oversimplification, the dangers of being obsessed with partial truth to the exclusion of the whole truth, let me use the very same article that was given to us by the coalition in support of their views. I am very flattered, so to speak, that this specific article was distributed, because the author, a top Korean economist who heads the Korean Development Institute of the Korean government, is a good friend of mine and we sat in the same Board of Economists for Asia-Pacific. I do not know if all of the Commissioners had the patience to read through this article that was distributed to all of us, together with the declaration that Madam President Muñoz Palma also asked to be distributed. This was an article by Dr. Suh Sang Mok, a Korean economist, entitled "Stemming the Tide of New Protectionism." It is amusing but also, of course, understandable that the coalition decided to underline very select paragraphs in this article. And those select paragraphs highlighted what is already well-known — that in all countries, whether industrialized or nonindustrialized, developed or developing, there are always legitimate vested interests asking for protection; that in many of these industrialized countries, like the United States and Japan, there are dying industries like textile that are singing their swan song and making last-ditch efforts in complete opposition to the common good, to the common economic good, to save their industries.

If the body will note and will read it through, the whole article of my colleague, Dr. Suh Sang Mok, is an eloquent appeal to the whole world to reject protectionism. In the very same article that was distributed, to indicate that there are some last-ditch attempts all over the world to save protectionism, there was a very dramatic appeal. And let me read the parts that were not underlined. He said:

Despite the worsening of the trade environment, Korea has undertaken a comprehensive import liberalization program. The number of Korean import, subject to quantitative restriction declined to 12% this year, from 32% in 1977, while the average nominal tariff rate fell to 20% from 36% during the same period.

Declining oil prices and the recent alignment of currencies make this an opportune moment to reverse the protectionist trend, with improved prospects for economic recovery, both the industrialized and developing countries should accelerate their efforts to achieve a freer trade environment.

And, finally, he concludes the article. This last paragraph is the punchline. He says:

In the struggle for free trade, concerted action by all involved parties is vital. By definition, trade involves interdependence. If some nations failed to support free trade by maintaining protectionist barriers and defying the rules established by GATT, retaliatory spirals can lead only to an eventual collapse of the global trade environment (And I must say, to a "no-win situation" for all). Clearly, no one would benefit from such a collapse. The industrialized and developing countries must cooperate to reverse the recent rise to protectionism. The best time to act is now.

So, this is a Korean economist appealing to the whole world that any tendency towards protectionism, no matter who may initiate such tendency, is self-destructive, is the road to international economic suicide.

Now, just to address distinctly the point raised by Commissioner Villacorta about the Jenkins bill, I have here the latest issue of *The Economist*. That has already been cited by Commissioner Bennagen on another occasion. For the information of the nonspecialists, this magazine *The Economist* is probably the best economic magazine for

the layman in the whole world. If we are looking for the most informed economic information, read this London-based magazine. So, in an editorial of this week's issue, the title is "Routing Protectionists," it says:

Even at the height of summer, most of the 240 million Americans wear clothes most of the time. Fewer than two million of them work in the cloth and clothing industry which is more profitable than most in manufacturing and mainly situated in the States with below average unemployment. The mills are still shedding labor but not because of foreign competition. They are protected by tariff six times higher than those for American manufacturing generally. It is the productivity case brought by modern equipment which is helping them to increase output with fewer workers.

So, I do not quarrel with the very factual statement of Commissioner Villacorta that despite the defeat of the Jenkins bill, this dying industry in the States is still being protected. There is no quarrel. But the point is, the whole world is precisely condemning that protectionist move. And it is hurting the Americans themselves and hurting the whole world.

The editorial continues:

To be so close to such foolishness is yet another sign that America is slouching towards protectionism. The administration's commitment to free trade has wobbled sadly in the past month.

Why is this nonsense happening? Remember, this is written by an economics journal in a country, Great Britain, that started the whole question of protectionism 200 years ago. And they have learned from their own mistakes. So why is this nonsense happening? Mainly because it is easy for politicians to buy votes by blaming imports for every layoff in the heartlands, and easier still to indulge in Japan-bashing. Free trade is a doctrine supported by the weight of history and wisdom, but without a political constituency, consumer groups have proved too small, too busy or just too chicken to take on union bosses and businessmen who have wrapped themselves in the stars and stripes. The editorial ends:

Closet free traders in Congress have no reason to be embarrassed by their views. The statistics do not lie. Americans are importing \$370 billion worth of goods a year which does not suggest a burning hatred of all things foreign.

And I completely concur with Commissioner Villacorta's statement that the Americans are very open to imports. And that is exactly the point that it is false to say that the Americans have been systematically and deliberately keeping underdeveloped countries as hewers of wood and drawers of water. That is the biggest inaccuracy. Precisely, as Commissioner Brocka said in our caucus, one who goes to the United States cannot buy anything made in the U.S. Everything is made in Korea, in Taiwan, in Japan and in the Philippines which is the most eloquent evidence that the U.S. developed mostly because of openness to trade, and protection is the exception that proves the rule.

Finally, let me answer the very moving question that has just been asked by Commissioner Quesada that was asked previously by Commissioner Tan, "Why do we remain poor?" By the way, in a private conversation, when I was asking Commissioner Tan about how it is in Leveriza, she said it would be paradise if we have more jobs available. I am now giving my explanation why we are poor; and this is my economic opinion which I do not, in any way, dogmatically defend. I am listening to all sides. But after studying the economic problems over the last 20 years, there are three main reasons why we are not in paradise — to use the phrase of Commissioner Tan:

First, precisely over the last 30 years, from the 1950s to the early 1980s, we encouraged the growth of very capital-intensive industries that did not contribute at all to the creation of employment opportunities. Not only through tariff protection, through completely over-valuing the peso for years and years and through giving all of these industries access to artificially cheap capital, we encouraged industries that completely glossed over our

tremendous pool of unemployed workers. And does the body know what is the summary of all those policies? The summary is called "protectionism." We overly protected capital-intensive industries and they did not contribute at all to the generation of millions and millions of jobs that were necessary in order to employ the more than 700,000 new workers that appear in the labor force year in and year out.

The second explanation for our mass poverty is what Commissioner Tadeo has been reminding this body from the very beginning. We completely neglected agricultural productivity. There is a whole world of difference between agricultural production and agricultural productivity. Sure, we expanded rice production; sure, we expanded sugar production; sure, we expanded coconut production; but how? Through expanding hectareage. Our means of production got more and more unproductive and the yield per hectare in all of these agricultural sectors declined year in and year out. That is why the poor farmer was not making the necessary income.

And the third explanation is rather very obvious: Twenty years of a corrupt and a repressive regime looted billions and billions of dollars away from this economy. I do not have to elaborate.

Those are, from my standpoint as a student of economic development of the Philippines, the three main reasons why we are not in economic paradise, and the first one of which is precisely protectionism.

I would like to ask Commissioner Ople to add some remarks especially concentrating on the formulation of his amendment.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you very much, Madam President.

I suppose I have a duty to speak in defense of that portion of the section, the authorship of which is attributed to me, although I must make it clear that this was one of the most amended provisions of Section 1. This has to do with the statement on industrialization based on sound agricultural development and agrarian reform and, of course, there is a last sentence in that paragraph, one of the nubs of the ongoing controversy, which states that "the State shall protect Filipino enterprises against unfair foreign competition and trade practices." That last sentence, I gather, was negotiated earlier from the Committee by no less than Commissioner Suarez who was in the situation of extracting blood from a turnip. If I understood that situation correctly just so, there would be a statement that would emphasize the obligation of the State to protect Filipino enterprises against unfair foreign competition and trade practices. Now, I think some of us on later reflection thought that the word "unfair" was very limiting and, therefore, would consider it a matter of honor and of life and death that this word should be expunged from that sentence. I did not author that sentence. It was Commissioner Suarez and the Committee that agreed on it but I thought it was a very worthwhile addition to that paragraph on industrialization.

To drop the word "unfair" would have two consequences, I believe: It would build permanent "Great Walls of China" around the Philippine economy which no Congress in the future could dismantle because it is a constitutional mandate and within those walls in effect, we are sanctioning forever a regime of shabby products exorbitantly priced and the cost of which is lodged forever on the back of the common man. That is what that will mean. It will then deprive the future Congress of any element of flexibility to deal with volatile domestic and international situations. It is a mandate that once and for all, and today and forever, the Philippine market is surrendered as a captive market to some of our own industries that will, therefore, lack the impulse and the impetus for improving their own efficiency, their own competitiveness for delivering products to the Filipino consumers that will combine good quality with lower cost. And it is in fact going to be a sentence of permanent economic stagnation for the Philippines.

In addition to that, I am repelled by the thought that some of our own industries will perpetually be excused from

rendering their own patriotic service to their own country by becoming the true anointed arm of the Filipino nation, for taking advantage of the dynamism of the entire international market environment so that we can earn the hard currency to finance our industrialization. Where are we going to get the money to finance our industrialization? It cannot come from perpetual subsidies. Part of that subsidy comes from the State through tax exemptions, but most of the subsidy comes from the common man, because these tariff walls of 30 years standing have insulated the manufacturer from the risk of competition and, therefore, of becoming more efficient, and have denied to the Filipino consumer, the common man, the right to be served with better products that cost less.

To equate an absolute protectionism with patriotism, I think, would be the greatest and the most dangerous of fallacies. I think the task of this Commission is not to shut off the Philippine economy from the rest of the world to become a hermit economy, to shut off all windows so that no bracing winds of competition would ever touch the shores of the Philippine economy, because if they are allowed to come in, even in the most deliberately measured doses, even a whiff of such winds would collapse the shaky pillars of some of our own industries.

I have nothing against Philippine industry. I do not own a single share of Philippine industry. But, at the same time, as a Filipino, I would like to put our industries to high standards of patriotic duty that would not consist of demanding a closed market parceled out among themselves, that would perpetuate the profits that they are making through monopoly control.

Let me single out one of them: the FILSYN. FILSYN is a monopoly. The reason the cost of the shirt to the average worker in Manila is two-and a-half times that of Taiwan and Hongkong is precisely these irrational blind protectionist policies have insured to this monopoly, 25% of whose stocks are Taiwanese, complete domination of the local textile field, charging, I gather, twice the price of comparable yarn that one can bring in. And that is what I mean: the burden of that policy ultimately rests on the back of the common man, the worker who must pay exorbitant cost for a shirt that, in quality, will suffer still by comparison with that which manufacturers in our own neighborhood can make.

My friends, Madam President, I rise in opposition to the motion for reconsideration. It is not because I do not welcome freedom of debate. The record shows I have always stood for it at all times. But I believe there are considerations of dignity, independence and even integrity that are at stake in this issue.

As with other deliberative assemblies, Madam President, whatever we do here, together with the rulings of the Chair, creates the force of precedent as part of our Rules. It is true that anyone can file a motion for reconsideration within the time limits allowed by the Rules. On past occasions, we will recall, Madam President, we even suspended the Rules to allow reconsiderations of previous decisions beyond the limit of 48 hours.

The President of the Commission, in all her rulings, has exemplified the very spirit of liberality itself. But let us start with the simple and unadorned fact that last Friday, all of us voted unanimously for this section. I think the Record of the Constitutional Commission will show that.

Now, some of us want to renege on that collective decision, and that is the reason for the motion for reconsideration. In spite of that, the Chair has allowed the fullest possible debate, not on the motion itself as a procedure, but on the merit of the issue. And I congratulate the Chair, again, for that liberality.

But, Madam President, when the avowed reason for seeking a reconsideration, especially when the vote sought to be reconsidered by external pressures so openly and brazenly exerted and so proudly acknowledged by some Members of this Commission, I think this Commission should draw the line. We are not speaking of belated illuminations from heaven, or of the grace of a sudden revelation from sustained analysis of the facts or the evidence. The provision targeted by this motion — Section 1 of the draft Article — was subjected to the most

exhaustive debates and one of the most demanding amending processes ever experienced on the floor of this Commission.

The proponents of the motion not only vigorously and forcefully took part; they have enriched and strengthened this particular section with their own amendments. Perhaps, the illumination, at the last minute, may have come from the position paper of the Coalition for Protectionism in the Constitution. But at that time, this document was already fully available. It became, as a matter of fact, a valued input into the debates and the process of amendment. It was not ignored; it was seriously and sympathetically considered. But there is certainly no call, I submit, to consider this external document — whatever its merits — as a controlling and binding guide for this Constitutional Commission.

I submit that because of these amendments and probably because of the help from this document that I had mentioned, this section has become so strong that the Minister of Trade and Industry, the Honorable Jose Concepcion, was quoted as saying that this formulation, as it now stands, might repel foreign investors and the trading partners of the Philippines. On one hand, Minister Concepcion says by this section we are scaring badly needed investments so critical to our economic recovery. On the other hand, we are warned by some of the lobbyists — whose behavior on the floor was censured by this Commission last Saturday — that in approving this, we, the entire Commission that voted unanimously for this provision, had committed treason, and I repeat, treason. This accusation against the Commission published by the Philippine Daily Inquirer and attributed to Mr. Alejandro Lichauco has never been denied.

Therefore, Madam President, even as the motion for reconsideration stands here, we are all stigmatized as traitors to our country and people, and the proponents of the motion seem to act as though we could remove this stigma from our collective reputation by reconsidering our unanimous approval of Section 1.

May I remind the Commission that treason is a capital offense punishable with death. Perhaps, it was used lightly, metaphorically, cavalierly; but I submit this is a serious, irresponsible and damaging charge against this Constitutional Commission and every Member thereof. And I am not about to ratify this indictment against this body by voting for the motion for reconsideration.

As a Member of this Commission, I am proud of this draft section that we have together approved, especially as it was amended, including those who now seek to reconsider it. This is a formulation that bears the stamp of our own authentic and independent will of a Constitutional Commission — a prescription for an independent and self-reliant economy under effective Filipino control ("under effective Filipino control" — that came from Commissioner Garcia); a mandate for industrialization and protection of Filipino enterprises from unfair competition and trade practice, and a fiat for new and innovative corporate forms of economic participation by the people themselves (that was again an amendment from my friend, Commissioner Garcia).

A burden of proof to show that this is an inadequate and even a treacherous document rests not upon this Commission but on those who have maligned us and who have been uttering threats to punish us by campaigning against the new Constitution. To vote for this motion is not only to admit the charge against us by indirection but to complete our humiliation by an act of capitulation and surrender.

I, therefore, urge the Commission, Madam President, to vote against this motion for reconsideration.

MR. NOLLEDO: Will the Gentleman yield to some questions, Madam President?

MR. OPLE: Very gladly.

THE PRESIDENT: Commissioner Nolleddo is recognized.

MR. NOLLEDO: Thank you, Madam President.

I heard the Commissioner say "absolute protectionism." Where did he get the idea of "absolute protectionism"?

MR. OPLE: I was making that remark on the basis of a hypothetical omission or dropping or deletion of the term "unfair" preceding "competition" in the last sentence of the paragraph on industrialization, Madam President.

MR. NOLLEDO: I understand that Commissioner Ople is the author of the amendment asking for the adoption of a policy of industrialization, but without mentioning protectionism, am I right?

MR. OPLE: That is true, Madam President.

MR. NOLLEDO: Would the Commissioner agree with me if I say that the Constitutional Commission, after adopting the policy of industrialization, should likewise adopt a companion policy of selective protectionism?

MR. OPLE: "Selective protectionism" is not abandoned by the adoption of unfair competition, Madam President.

MR. NOLLEDO: If we pursue the policy of industrialization, in accordance with the Commissioner's amendment, is it not true that there will be new industries to be set up and just like babies, they should need nourishment through protectionism?

MR. OPLE: Yes, I believe that we should protect our infant industries.

MR. NOLLEDO: And that when some well-meaning Members of this Commission advocate protectionism as a matter of policy in the Constitution, we do not necessarily advocate absolute protectionism. Congress itself may fix a period during which some policies or some provisions on protectionism should be adopted in order to protect newly established industries; would the Commissioner agree with me?

MR. OPLE: The paragraph as written will not foreclose the option of Congress to do that, Madam President.

MR. NOLLEDO: Would the Commissioner agree with me if I say that competition is not the only factor that should be considered in order that we may have good products or high quality products? He stated absolutely that without competition, our local industries would have no means of improving their products. Would the Commissioner agree with me if I say that there should be incentives on the part of the government to be granted to these new industries and that the government itself is expected to adopt or set forth rules of standards that should be observed to attain high quality products?

MR. OPLE: The government has not been wanting in incentives for domestic industries. As a matter of fact, I think Commissioner Monsod will confirm that the NEDA and even the Ministry of Trade and Industry feel that we may have to review some of these incentives which have not certainly provided an impetus for our industries to be more efficient and more competitive. So, I agree with these incentives.

MR. NOLLEDO: Does the Commissioner agree with me?

MR. OPLE: Yes, but the industries can have an excess of incentives that practically teach them not to be self-reliant but to be forever dependent.

MR. NOLLEDO: That what the Commissioner is fearful about is an irrational protectionism?

MR. OPLE: Yes.

MR. NOLLEDO: And, therefore, protectionism as recommended by some Commissioners is not exactly rational.

MR. OPLE: We can debate about the extent to which the present policies are rational or not, but certainly in this paragraph, and especially in the last sentence, what we are trying to do is to give Congress the flexibility that it

will need to enact laws that will put this mandate into operation. But if we remove the qualifier "unfair" from the phrase "competition and trade practices," that is what I would call an absolute protectionism. I am not against "protectionism" where it is rationally utilized, for example, to protect fledgling industries, but I am against a theory of perpetual infancy, according to which all of them forever must be subsidized and protected for their own good.

MR. NOLLEDO: To my mind, whether the Commissioner agrees with me or not, by providing for industrialization without protectionism, there is created a lameduck provision.

Thank you, Madam President.

MR. OPLE: We will correct the hiatus in the Commissioner's perception when given the opportunity in the future, Madam President.

MR. SUAREZ: Madam President, may I be recognized.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Our humble name was alluded to by Commissioner Ople regarding the supposed authorship of the last sentence of Section 1. If I may trace the genesis of this particular sentence, I did inform Commissioner Ople that I was instrumental in authoring that particular sentence. But during the early committee hearing, when there was a hue and cry regarding the possible use of the terms "protection," "protect" or "protectionism," the Committee was put in a quandary. Being a lawyer, and in order to reach a compromise, we suggested the sentence: "The State shall protect the interest of Filipino enterprises." Later on, in the course of the committee discussions, the phrase "against foreign competition" was included. Then after that, there was an insistence on the insertion of the word "unfair." So on the committee level, in order that we could at least submit an acceptable proposition, we came up finally with the sentence "The State shall protect Filipino enterprises against unfair foreign competition" without the additional phrase "and trade practices." There was a debate and a discussion on the use of the term "unfair." The consensus of the Committee was that we should include it and submit it for discussion on the floor.

So, this matter of partial paternity is correct. I am only explaining to the honorable Commissioners how it happened that the authorship was attributed to this humble Representation. It was not full parenthood. It was only partial. In fairness to both of us I told Commissioner Ople: "Hey, I spent about twenty or twenty-five minutes to have the word 'protect' included here, so you better include it in your proposed amendment."

That is exactly how it happened.

Thank you, Madam President.

MR. TADEO: Madam President.

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Gusto ko lang pong linawin ang sinabi ni Commissioner Villegas tungkol sa "agricultural productivity" na humihina daw sa kasalukuyan, na para bang ito ang dahilan ng kahirapan ng mga magbubukid.

Noong wala pa ang IRRI sa Pilipinas ay umaani lamang tayo ng 30 kaban sa bawat ektarya. Nang dumating ang IRRI sa Pilipinas noong March 8, 1960, umani naman tayo ng average of 46 cavans per hectare. Ngunit tayo pa rin ang may pinakamaliit na ani sa buong mundo. Suriin natin ang mga pangyayari. Nang dumating ang IRRI sa Pilipinas, nakita ng kaibigan nating siyentipiko sa Los Baños na ang IRRI ang didikta sa ating pamahalaan kung ano ang programa sa produksiyon ng bigas. Nang dumating ang IRRI, ipinakilala sa atin ang high-yielding

varieties na matakaw sa pataba at pestisidyo. Kapag binhing ito ang itinanim, siguradong gagamit ng chemical fertilizer. Kapag gumamit tayo ng chemical fertilizer, lalambot ang palay natin at magiging fibrous. Kapag hindi naman tayo gumamit ng pestisidyo, aatakihin ng peste at sakit ang palay natin. Kapag gumamit na tayo ng pestisidyo, tiyak na hindi lamang iyan. Ang palay na ito ay matakaw sa patubig, kaya kinakailangang umutang tayo sa ADB, sa World Bank o sa IMF, kaya ang irrigation system sa Pilipinas ay hindi na pag-aari ng Pilipino; ito ay pag-aari na ng ADB, IMF at ng World Bank. Dati ang bayad lamang sa patubig ay P60 bawat hektarya, ngunit nang mangutang tayo sa ADB, World Bank at IMF, ang bayad sa patubig ngayon ay P875. Hindi lamang iyan. Nasira ang bayanihan spirit. Dahil ang binhi ay short-maturing varieties, wala na ang panahong magbayanihan; gumagamit na lang tayo ng makinarya sa pagsasaka. Dati ang upa sa makinarya ay P150 lamang. Noong kalabaw ang ginagamit sa pagsasaka, hindi nga kami gumagamit ng makinarya.

Sa Bulacan, 90 porsiyento ang gumagamit ng makinaryang puro produktong dayuhan. Ang bayad noon sa makinarya ay P150 per hectare; ngayon ay P1,050 na. Dati ang fertilizer ay P30 per bag, ngunit ngayon ay P200 na. Dati P16 ang per quart ng insecticide ngunit ngayon ay P200 na. Tumaas ang produksyon ng palay. Mula sa 30 cavans ito ay naging 46, ngunit napunta ba ang pagdami ng produksyon sa bulsa ng magbubukid? Hindi. Napunta ito sa bulsa ng multinationals.

Sasabihin ko sa inyo. Ang IRRI ay 25 taon na sa Pilipinas. Itinatag ito noong March 8, 1960, kaya't silver jubilee nila noong 1985. Ngunit tingnan ninyo ang kalagayan ng magbubukid sa Pilipinas. Alam ba ninyo na sa pamamagitan ng chemical fertilizer, nalalason at nagiging maasim ang ating lupa kayat hindi na ngayon ito productive? Ang kailangan natin ay organic fertilizer, compost-making. Ang IRRI ba ay gumawa ng organic fertilizer sa loob ng 25 taon sa Pilipinas? Hindi. Ang itinuro nila ay ang pagkontrol ng mga insekto o mga peste ng mga halaman. Dalawang klase ang mga insektong iyan: beneficial insects and harmful insects. Sa tinatawag na ecological balance kailangang talunin ang harmful insects at paramihin ang beneficial insects. Ito ang paraan ng biological control. Darating ang panahong mawawala na ang mga harmful insects. Hindi na tayo gagamit ng pestisidyong nilikha ng IRRI sapagkat kung gagamit tayo nito, mamamatay ang beneficial insects. Magiging perpetually dependent na tayo sa produkto nila. Ibig kong sabihin kay Commissioner Villegas na ang ating manok, the one developed by IRRI, ay tinatawag na Los Baños Cantonese. Walang maipaparis na ibang manok na native sa Pilipinas dahil wala itong proteksiyon. Ano ang sinabi ng ating mga technocrats? Mas magaling pa ang sabi nila na umangkat tayo ng breeding stock sa labas ng bansa kaysa tayo ang magpalahi sa Pilipinas. Bumagsak ang Lorenzo Farm, ang pangunahing mag-iitlog sa Nueva Ecija noon. Naging perpetually dependent tayo sa IRRI.

At alam ba ninyo ang paraan ng U.S.? Bibigyan tayo ng babae at lalaki ng A and B lines, halimbawa, lalaki ng A at babae ng B. pero hindi tayo bibigyan ng pure A and B lines o ang babae't lalaki ng A or B. Sapagkat alam nilang kapag ginawa nila iyon, hindi na tayo aasa sa kanila. Ang ibinibigay lang sa atin ay laging isa upang maging perpetually dependent tayo sa kanila. Kapag inangat natin ang breeding stock, kailangang angkatin rin ang environment at ang technology kung paano sila palalakihin. Sinabi mismo ito ng Animal Science Director ng UP Los Baños. Mayroon tayong baboy na tinatawag na Berkjala at ito'y hindi rin binigyan ng proteksiyon.

Tutol ako kay Commissioner Villegas sa sinabi niyang wala tayong magagawa kung bakit 90 porsiyento ng mga sanggol sa Pilipinas ay kinakailangang umasa sa dayuhang gatas, sapagkat ang ating niyog ay mayroong 20 o 21 porsiyento ng protinang katulad ng gatas na kung pauunlarin natin ay makalulutas ng 70 to 78 porsiyento ng malnutrisyon sa kanayunan. Pero iyan ba ay binigyan ng proteksiyon?

Tungkol naman sa self-reliant, independent economy, ang ibig sabihin nito'y nasa kontrol ng Pilipino ang ekonomiya. Pero nang suriin namin ang probisyon, nakita naming mayroon itong mga loopholes. Katulad din ito ng probisyon sa agrarian reform na binotohan ko rin sa dahilang hindi ako abogado at hindi ako economist. Ngunit matapos namin itong suriin, nakita naming naipasok nga ang "agricultural lands" ngunit tadtad na tadtad

naman ng mga loopholes. Itong Article on National Economy and Patrimony ay ganoon din. Ito ang aming ipinakikipaglaban. Ang sabi ninyo: "Jimmy, hindi ba matagal na naming ibinigay sa inyo? Dapat sana'y pinag-aralan na ninyo." Ngunit tanggapin naman sana ninyong hindi pa dapat pag-usapan ang Article on National Economy and Patrimony. Ang dapat pag-usapan ay tungkol sa local governments. Ibinibigay nga ninyo sa amin ang proposal sa Artikulong nabanggit pero tinatalakay natin noon ang Article on Social Justice, na pinag-aralan din namin. Ang ibig ba ninyong sabihin, kapag ibinigay ang proposal sa National Economy and Patrimony, tututukan na namin kaagad iyon at kalilimutan na namin ang Social Justice? Tanggapin nating nagmamadali tayo sa ating gawain; halos hindi na natin ito mabasa. Ngunit ang Article on National Economy ay totooong napakahalaga at dapat pag-aralan sapagkat 55 milyong Pilipino ang umaasa sa atin dito. Pero ang sinabi ni Commissioner Ople na ang "perpetual infancy" ay para na ring "treason" ay lubhang nakasakit sa akin. Gusto ko lang sabihin kung paano natin inaayos itong ating Saligang Batas. Ayon sa Section 4 ng Article on National Economy and Patrimony:

The President with the concurrence of two-thirds vote of the National Assembly, by special law, shall provide the terms and conditions under which a foreign-owned corporation may enter into agreements with the government involving either technical or financial assistance for large-scale exploration, development, and utilization of natural resources.

Nawala na ang pariralang "two-thirds vote." Ano ang tinanggap ninyong amendment ni Commissioner Jamir tungkol sa concurrence of Congress o National Assembly? Ano ang ginagawa ninyo sa ating Saligang Batas? Nakapagtataka, ang ipinasok ni Commissioner Felicitas Aquino ay ito: "THE STATE SHALL PROTECT FILIPINO ENTERPRISES FROM FOREIGN CONTROL AND COMPETITION." Pumayag ba kayo? Kapag ang interest ng mga multinationals ang ilalagay, payag agad kayo, ngunit kapag interest ng mga Pilipino, hindi kayo pumapayag.

THE PRESIDENT: May we request our guests in the gallery to please refrain from making any disturbance or observation?

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Commissioner Romulo is asking for recognition.

MR. ROMULO: May the Committee be allowed to complete its reaction, Madam President?

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: This is very brief, Madam President.

Commissioner Sarmiento, whom I respect greatly, referred to the sponsorship speech of a distinguished colleague, former Speaker Laurel, and I just wish to expand on that reference because that was a very historic event. Under the leadership of former Speaker Laurel, and this was in 1969, for the first time, both Houses of Congress passed a joint resolution, entitled: "Joint Resolution Establishing Basic Policies To Achieve Economic Development And Attain Social Justice."

Let me read relevant portions from that resolution of Congress in 1969 which, if the body will notice, reflect the basic concepts of our Section 1. This is now a direct quote:

Within the context of what is socially desirable, every effort shall be exerted to persuade and encourage private capital to invest in enterprises that can operate with maximum efficiency in providing quality goods and services using domestic raw materials at competitive prices to the national and foreign markets.

Does that not harken to Section 1 and the Ople amendment?

The second sentence of that paragraph of Joint Resolution No. 2 states and I quote:

However, in their infant stages, (may I repeat that — in their infant stages) products of domestic industries and agricultural enterprises shall be given competitive advantages in the national market through direct measures, and foreign markets for those products and others that can be produced at competitive cost shall be fully explored and developed.

Again, that reflects the Committee's position.

Finally, Madam President, with regard to agricultural development and industry, may I quote again from that Joint Resolution No. 2 which was passed in 1969. There are really very few things new under the sun:

The government shall actively plan and promote the development of the agricultural sector in harmony with the industrial sector in order to achieve increased agricultural productivity and national self-sufficiency in the basic staples.

Does that not also reflect parts of Section 1? That is all I wish to say, Madam President.

MR. VILLEGAS: We have the next committee member to speak.

MR. SARMIENTO: Madam President, this is in response to the comments made by Commissioner Romulo. I will be very brief.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Commissioner Romulo adverted to Joint Resolution No. 2, which is the Magna Carta of Social Justice and Economic Freedom. But in my brief explanation this morning, what I cited was the sponsorship speech of Commissioner Laurel, not Joint Resolution No. 2. In that speech, he advocated protectionism and industrialization.

Thank you, Madam President.

MR. ROMULO: Madam President, I fully agree with Commissioner Sarmiento. I did not wish to imply that he was quoting from Joint Resolution No. 2 but precisely, the sponsorship speech of Speaker Laurel was endorsing Joint Resolution No. 2.

THE PRESIDENT: Who is the next speaker?

MR. VILLEGAS: Commissioner Monsod would like to speak, Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I just want to put on record certain quotations from the study called "Economic Recovery and Long-Run Growth Agenda for Reforms" which has been approved by the government. I would like this body to note that among the authors of this study are economists Romeo Bautista, whose name was mentioned earlier this morning, and Mahar Mangahas, who cooperated and worked with us on the Article on Social Justice that has been recently approved. The latter has a passionate sentiment for social justice and agrarian reform. According to him, his view is that equity is important but, as we will note from this book, there is also a need for efficiency. May I read from this some quotations:

Agriculture and Rural Development — Despite the rapid growth of agricultural output in the 1970s, incomes of the rural population had been falling behind and by the early 1980s, production of major crops has stagnated. The rural-urban income ratio has declined from 75 percent to 50 percent in the 1980s and the prices of

agricultural products have all dropped.

The heart of the efficiency problem in agriculture and overall income distribution are both in the macroeconomic and agricultural policies.

In the area of macroeconomic policies, the industrial protection system has not only raised prices of manufactured goods to agriculture, but has also reduced the peso prices of exportable agricultural crops by defending a lower value of foreign exchange.

Likewise, exchange rate policy itself has, in the past, failed to make the necessary adjustments to avoid prolonged overvaluation of the peso culminating in a balance of payments crisis and the need for sudden devaluation. This failure has further served to keep agricultural prices low over long periods of time. At the same time excessively capital-intensive character of industrial growth has meant an inadequate rate of labor absorption, depressing rural wages.

May I also just continue here on Industrial Policy with the Chair's indulgence?

One of the requirements of our proposed development strategy is a liberalized trade regime that would foster competition and provide a set of market prices closely reflecting social opportunity costs and benefits. That kind of environment has eluded us through most of the postwar period, causing the country's scarce resources to be allocated inefficiently and constraining the growth of national income and foreign trade. The price distortions created by the past trade exchange rate policies also discriminated heavily against agriculture in favor of manufacturing. But within the manufacturing sector, the protection structure strongly favored import substitution over export production as well as finished consumer goods over intermediate and capital goods.

There are two themes to which our recommendations for trade liberalization are indicated. One is the significant reduction of trade taxes and the complete elimination of quantitative restrictions. The second relates to the adoption of a flexible exchange rate policy that will maintain a realistic valuation of the peso. The principal objective of our suggested policy measure is to make the incentive structure as neutral as possible.

Concerning industrial policy, we are cognizant of the efforts to offset the price distortions due to trade and exchange rate policy by protection through BOI-administered fiscal and other incentives. There is a high degree of selectivity, however, in the granting of such incentives.

A very prominent historical feature of our economy is the recurrence of balance of payments crisis every ten years. We had one in 1949, another in 1960, another in 1970 and one in 1983 that is still with us. Unless one breaks the cycle, the late 1990s is likely to usher once more a familiar visitor. With it will have been half a century of mediocrity in the country's economic performance.

Although this phenomenon could be partly attributed to external shocks, much of the blame could be laid squarely on our own trade and domestic policies, particularly our effort to defend a fixed exchange rate until it is no longer possible to borrow; and our continuing policy of protection via tariffs and import controls. We have a system of protection which rewards inefficient import substitutes (made profitable only by import and tariff restrictions) and generally penalizes exports and efficient import substitutes. As a result, in the 1980s, further import substitution has become more and more costly and difficult to achieve, while much of the potential for export growth has remained unrealized.

What most people overlook is that protecting one sector means penalizing another. Protecting PICOP by restricting paper imports means that education for our children will be costlier and our export publishing industry dies. It also means the rapid exploitation of our forests. The idea that we, therefore, have to produce our own steel means that consumers pay more for downstream product lines which, being high in cost, cannot be sold abroad. The main instrument of protection to date is the battery of quantitative restrictions on imports either through outright banning or quantity ceilings.

In view of the above, we propose the removal of all quantitative restrictions on imports including licensing. We endorse the original intent of the Ministry of Trade and Industry of liberalization of quantitative restrictions. They should be removed in one year's time.

There are many more on this paper which I would like to endorse to my colleagues to read because it is a very disciplined way of studying this issue. But I would like also to close that I have talked to some of the experts in the more efficient industries, one of whom is Dante Santos of Philacor. Philacor has a very good record of labor relations. Mr. Dante Santos is for import liberalization. He said it is difficult, but it forced him to be efficient and he is exporting.

Thank you.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I speak in support of the motion to reconsider the approval of Section 1. I think part of the confusion has something to do with the unequal grasp of the issues and the unequal access to information. That is expected, of course, from a group as diverse as the Commission because even in the social science disciplines, economics is increasingly becoming unreachable by the other social scientists. There are pros and cons to all views, and over the weekend, I saw another view from a former Dean of the School of Economics which I think supports a selective approach to protectionism but also links up the liberalization move to the policies of the World Bank and the IMF. So, with the Chair's indulgence, let me read this article by former Dean of the UP School of Economics, Amado A. Castro. It is entitled: IMF Theology Part II:

At the Bretton Woods Conference in July 1944, the Allies met to plan the post-World War II economic order. They agreed to set up three organizations: the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (World Bank) and the International Trade Organization (ITO).

By design, there was to be specialization among the three institutions: the IMF was to take care of monetary matters and short-term finance; the World Bank would concentrate on the rehabilitation of the war-torn industrial nations mainly in Europe, and the long-term economic development of underdeveloped countries. The ITO was to assure orderly international trade.

The World Bank was established in 1946; the IMF, in 1947. The ITO was slated to be organized at the Havana Conference in 1947. The spokesmen for the underdeveloped countries, prominent among them the late Central Bank Governor Miguel Cuaderno, denounced the proposed ITO as a device being foisted by the advanced nations to preserve the status quo of world trading. The ITO was scuttled.

Today, however, by a strange twist, the IMF is carrying on a large part of the ITO's original mission to liberalize world trade. Under the guise of promoting sound national currencies, the IMF tackles balance of payments problems which cause foreign exchange and currency difficulties. And one of its theologies is that free trade leads to economic efficiency and sound balance of payments situations.

In principle, free trade is, indeed, as Adam Smith pointed out in 1776, the economists' ideal. By giving full play to competition, free trade leads to international division of labor and therefore economic efficiency. National economies should become stronger for it. But as often happens, between the theoretical ideal and the real world, many factors come into play which can justify departures from the ideal.

One of the justifications for a paced trade liberalization program is infant industry and even infant economy protection. A free trade regime freezes the trade situation. It gives an advantage to those industries which are already established. The successful industrialization of Germany, Japan and other latecomer countries and now Korea and Taiwan which protected their budding industries demonstrate that up to a point, infant industry and

infant economy protection have historical validity.

Furthermore, long-run solutions inevitably involve short-run adjustment difficulties for sectors adversely affected. These should be sorted out before full trade liberalization can take place. Finally, a depression is a poor time to preach free trade; adjustment is less painful in an expansionary economy.

And to conclude, the last paragraph is a sober statement:

These and other reasons argue for intelligent and considerate, not to mention compassionate, application of trade liberalization prescriptions.

Thank you, Madam President.

MR. VILLEGAS: I thank the Commissioner very much.

Madam President, I just would like to respond to that.

I am very glad that Commissioner Bennagen read the paper of former Dean Castro, because it is really fully supportive of the second paragraph of Section 1. We are definitely in favor of selective protection especially as regards infant industries and against all dumping and other unfair trade practices. So, it is, indeed, a support of the section.

MR. BENNAGEN: For a little while. I think I brought that out because there seems to be a trend towards reducing the issue into black and white. In the debate, mention was made of the fact that there has to be both tariff and nontariff barriers with respect to competition.

MR. VILLEGAS: Which we fully support.

MR. BENNAGEN: This is just a point of clarification. May I ask either Commissioner Villacorta or Commissioner Sarmiento.

Is it the understanding that domestic industries would include also foreign companies located in the Philippines?

MR. VILLACORTA: Yes. That is why I disagreed with some of our colleagues that protectionism will necessarily kill foreign investment.

MR. BENNAGEN: Thank you.

MR. VILLACORTA: As a matter of fact, it will have the effect of protecting foreign investment in the Philippines.

MR. BENNAGEN: In other words, we are saying that we are not closing the doors completely to foreign participation.

MR. VILLACORTA: We are not closing the door to foreign participation.

MR. BENNAGEN: Thank you.

MR. MONSOD: We just want to clarify that in the sentence of the second paragraph — we do not want to protect multinationals; we want to protect Filipino enterprises.

MR. VILLACORTA: Yes, but what I am saying is that some of our colleagues are implying that the protection against foreign competition would ban importation and foreign investment. That is the impression being given.

MR. MONSOD: Then maybe we should read again the second paragraph.

MR. VILLACORTA: We have read it very carefully, and the interpretation is very clear to us.

But I would just like to reply to Commissioners Villegas and Ople.

First of all, I would like to ask Commissioner Villegas if he knows of any protected industry in the Philippines that has lower prices compared to those prices offered by foreign producers. In other words, would the Commissioner be able to cite some cases of protected industries which have lower prices compared to imported goods?

MR. VILLEGAS: Precisely they are protected because they do not have lower prices. I think it is a contradiction in terms. They were looking for protected industries that have lower prices.

MR. VILLACORTA: Are there protected industries right now in the Philippines? Could the Commissioner enlighten us and give us examples of protected industries?

MR. VILLEGAS: Of course, FILSYN was mentioned as one of them, all industries in which there are still quotas in our list of restrictions of import, and all tire industries with 30 to 50 percent tariff rates.

MR. VILLACORTA: What about the case of rice? Would the price of rice be higher or lower compared to rice that we would have imported?

MR. MONSOD: I am glad the Commissioner raised that point because the liberalization program does not include rice and corn.

MR. VILLACORTA: I raise this question because the Honorable Villegas always cited the textile industry and the implications of its protection on the American consumers, as if to say that anything that serves to protect certain local industries would necessarily entail higher prices for the consumers and would be bad for the economy, unless Commissioner Villegas would want us to import from Thailand and the United States where the price of rice would be much cheaper for our rice eaters.

MR. VILLEGAS: Precisely, there are situations like that in the rice industry where whatever happens, we protect it. So that is a possible situation.

MR. VILLACORTA: If the Commissioner can protect the rice-producing industry, why can we not extend the same protection to all other industries?

MR. MONSOD: If we do that, then where will we get our foreign exchange in order to finance our imports? Japan has always been cited as providing very high protection to its agriculture but forcing its industry to be competitive.

On the question of import liberalization, I want to mention also that products for national security, health, and safety are not included in the import liberalization.

MR. VILLACORTA: If that is the intendment and contemplation of the Committee with respect to the idea of protection against foreign competition, can that not just be placed on the record? Can we not then just remove the term "unfair" because it is very clear. . .

MR. MONSOD: It is the reverse. It is already on record five, six, or seven times that dumping constitutes unfair competition; that we have to protect our infant industries; that in order to recover from recession, we should allow industries temporary relief until they can go back to normal levels. It is very clear on record.

MR. VILLACORTA: Madam President, I am disturbed by the double standard applied to the insertion of certain words in the Constitution. It seems that on many occasions when we are clear about the intention of a certain

provision, many of our colleagues insist on not putting that word because anyway the contemplation and intentment are supposed to be clearly registered in the record of the deliberations. On the other hand, it seems that when it works against their favor, then they insist on the insertion of a certain word. I just would like to put on record that I see this as a very transparent attempt at legal necromancy. Madam President, I would like also to respond to the Honorable Ople. During the caucus and in the last session we had last Saturday, and consistent with the ethics of parliamentarism, I thought we were not going to impute motives on the actions and motions of our colleagues. And for that reason, I was constrained to make an apology for the sake of the unity and integrity of this Commission.

The Honorable Ople, whose eloquence we neophytes cannot match, in his speech imputes ulterior motives to us, and accuses us of succumbing to undue pressure and influence coming from an outside bloc.

First of all, what is so wrong with this coalition? Why is it being presented in this body as if it were a monster, as if it were a group of subversives and hotheads? I have just named the signatories of that position paper, who included respectable people such as Justice J.B.L. Reyes and others. What is particularly wrong with its composition? What is fundamentally defective about their position? If we can quote from Londoners who wrote *The Economist*, if we can quote from Koreans, then what is wrong with quoting from the position paper of a coalition composed of our own countrymen, from among the ranks of businessmen, laborers, farmers, professionals and others? Just because of a seemingly unfortunate incident last Friday, the coalition is being projected as if it is such an objectionable organization.

And, moreover, I would like to mention to the Honorable Ople something that perhaps the Commissioner is not aware of. I did not exercise my right to vote when Section 1 was voted upon, precisely because I did not think that I could vote intelligently on the subject inasmuch as only one side was presented. If the Honorable Ople would remember, in the caucus that we had that noontime, I precisely raised certain questions to the Committee. At that time, I had not met any member of the coalition. It is true that in the afternoon we consulted certain economist-members of that coalition, which is perfectly legitimate because we are not economists.

So, I deplore this post hoc ergo propter hoc policy.

MR. OPLE: Madam President.

MR. VILLACORTA: Just because one action preceded another action does not imply that there is necessarily a causal relationship between these two events.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I appreciate the candor and vigor with which Commissioner Villacorta made his comment, by way of reply to some points I had made earlier. I do not think that I was in any manner degrading the motives of those who are seeking a motion for reconsideration now. I spoke of certain facts; that on Friday, as the records will show, there was a unanimous vote. I was not aware that some Members of the Commission did not participate in that voting and we have to go by the official record of the Constitutional Commission. I have no quarrel with the coalition of business leaders, labor leaders and sectoral leaders that have been constituted in order to make proposals to the Constitutional Commission. There are so many other groups that in the exercise of their civic duty have made proposals to the Constitutional Commission, but I must admit that upon reading the *Philippine Daily Inquirer* issue of Saturday, August 16, page 1, I thought that the statement that was attributed to Mr. Lichauco constituted an offense to the entire Commission.

Madam President, may I read just two paragraphs of this news article under the by-line of Marlen Ronquillo:

A broad coalition of local industrialists, peasants, workers and professionals threatened yesterday to campaign for the repudiation of the Charter now being drafted because of an "anti-Filipino" economic policy unanimously passed by the Constitutional Commission.

"It is nothing but pure and simple treason," said economist Alejandro Lichauco, a member of the coalition, in reaction to paragraph 2, Section 1 of the Article on National Economy and Patrimony.

I do not think that I should impose upon the Commission by reading the rest of this news story, but if I said some fairly strong words to which I am not accustomed on this floor, I hope everybody will understand it, in the light of my own reaction as a Member of this Commission, to this accusation of treason against all of us. I did not seek a remedy of reparation for this. I reserve that for the future, Madam President, but I just wanted to put my own comment in a proper light. I did not accuse anyone in this Commission of lacking fidelity to his duty, but we will have to admit that the provocation was very great in this quotation which was never denied and, in effect, that I was speaking not only for myself but for the many Members of the Commission when I articulated that protest.

Thank you very much.

THE PRESIDENT: The matter has been sufficiently explained, and I would like to inquire from the Floor Leader if the body is ready to vote.

MR. RAMA: Yes, Madam President.

MR. VILLEGAS: We would like to have the vote, Madam President.

MR. RAMA: The body will take a vote now.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, may I just have two minutes in support of the motion for reconsideration. I must begin by saying that I myself am not in favor of absolute protectionism. I have listened carefully to all the speakers, and what I perceive is that there is no absolute irreconcilability in what they are saying. But what I do perceive is that there are differences in the reading of the second paragraph of Section 1, and I think that we should make an effort to remove these differences in reading. There are references to the records. I think we should make an effort to see if we can improve the language of paragraph 2 so that it can reflect more accurately what are contained in the record. So in asking for a reconsideration, I am quite aware of that hyperbolic statement referred to in the Daily Inquirer. But I think that for the sake of clarifying this very important point, we should be able to transcend such hyperboles and face this as dispassionately and as coolly as possible because it is quite clear that we have here men of goodwill and intelligence who read the paragraph differently. I think we should make an effort to see if we can do something about it because this paragraph will be used in the future by legislators and by jurists. If we can help lessen their work by clarifying it some more now, then I believe we will be doing a service to our nation.

Thank you, Madam President.

MR. ROMULO: Madam President, the Committee would like a vote now.

THE PRESIDENT: All right. We will proceed to vote on this particular matter.

MR. BROCKA: Madam President.

THE PRESIDENT: Commissioner Brocka is recognized.

MR. BROCKA: May I request a nominal voting.

MR. JAMIR: Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Madam President, under our Rules, Section 39 has this provision:

. . . Nominal voting on questions not connected with constitutional proposals or the text of the Constitution itself shall not be allowed, except when it involves the discipline of a Member.

MR. SARMIENTO: Madam President, I think this matter involves a constitutional proposal. Therefore, the motion for nominal voting is proper. I will object to the manifestation of Commissioner Jamir.

MR. ROMULO: The Committee will accept nominal voting just to finish this matter.

NOMINAL VOTING

THE PRESIDENT: The Chair rules that nominal voting is in order. So, the issue before the body is whether or not to reconsider the decision of the Commission handed down last Friday approving Section 1, as amended, of the proposed Article on National Economy and Patrimony.

MR. ROMULO: Madam President.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: This requires a little clarification. The motion before us is a motion for reconsideration. Therefore, if we vote yes, we are voting to grant the motion for reconsideration; if we vote no, we are voting not to grant the motion for reconsideration.

THE PRESIDENT: The Chair precisely was about to state that. If we vote yes, naturally, we want to reconsider the approval of Section 1; and if we vote no, then we uphold the decision of the Commission effected last Fridays.

FIRST ROLL CALL

THE PRESIDENT: The body will now vote on the motion for reconsideration and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar No Bacani No

Alonto No Bengzon No

Aquino Bennagen

Azcuna Yes

MR. BENNAGEN: I am in favor of the motion for reconsideration. Let me explain very briefly.

THE PRESIDENT: Commissioner Bennagen has three minutes.

COMMISSIONER BENNAGEN EXPLAINS HIS VOTE

MR. BENNAGEN: As indicated in my earlier manifestation, I think there is still some confusion as to the clarification of the key terms, and I feel that a reconsideration will open the avenue for greater clarity so that future legislators will truly understand that the intent of the Commission is for a national economy that truly serves the interest of the Filipinos.

Thank you, Madam President.

THE SECRETARY-GENERAL, reading:

Bernas Yes Calderon No

Rosario Braid Yes Castro de

Brocka Yes

COMMISSIONER DE CASTRO EXPLAINS HIS VOTE

MR. DE CASTRO: My vote is no.

We have discussed Section 1 in the caucus and in the session hall for two days. I am not an economist but I understand the whole thing through the explanations of the members of the Committee, the Members of this Commission and those who seek for reconsideration. In fact, I have an amendment to emphasize more the "Filipino First" policy. Hence, I vote no.

THE SECRETARY-GENERAL, reading:

Colayco No Gascon Yes

Concepcion No Guingona

Davide Yes Jamir No

Foz Yes Laurel

Garcia Yes Lerum

COMMISSIONER LERUM EXPLAINS HIS VOTE

MR. LERUM: Madam President, I am voting for the reconsideration of the motion because I believe that there is still a middle ground between those who are against this proposal and those who are in favor.

THE SECRETARY-GENERAL, reading:

Maambong No Reyes de los No

Monsod No Rigos No

Natividad Rodrigo No

Nieva Abstain Romulo No

Nolledo Yes Rosales

Ople No Sarmiento Yes

Padilla No Suarez Yes

Quesada Yes Sumulong No

Rama No Tadeo Yes

Regalado No Tan

COMMISSIONER TAN EXPLAINS HER VOTE

SR. TAN: I vote yes.

I feel we are becoming hysterical over the lobbying of the coalition group. If the members of this coalition group felt fiercely about their stand, perhaps they have a good reason to feel impassioned. While their manner was perhaps not parliamentary, I never felt threatened by this group and certainly they were nothing compared to "the right to life" group which carried me physically to the floor to listen to their program. Why should we look at a vote for reconsideration as a weakness just because we might be accused of treason? Has not Marcos threatened us for at least twenty years not only of treason but subversion, sedition and even death, but we never succumbed? Could we not change our minds because we learned something we did not know before? Only a fool does not change his mind. Can we not change our minds because what we learned in economic language confirmed what our farmers and workers have been crying out for twenty years? How quickly we forget.

THE SECRETARY-GENERAL, reading:

Tingson No Villacorta Yes

Treñas No Villegas

Uka No

COMMISSIONER VILLEGAS EXPLAINS HIS VOTE

MR. VILLEGAS: I vote no because I believe that there is no imperfection in the language that cannot be remedied by the Committee on Style.

THE SECRETARY-GENERAL: Is Madam President voting?

THE PRESIDENT: No, unless there is a tie.

SECOND ROLL CALL

THE PRESIDENT: The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Aquino Natividad

Guingona Rosales

Laurel

MR. SARMIENTO: Madam President, with due respect to Madam President, may we know her vote on this issue?

THE PRESIDENT: I was just saying I will vote in case there is a tie. If the body needs my vote, I can give it.

Does the Commission desire that I give my vote?

My vote is no, because I believe that even with this provision of Section 1 in this Constitution, it does not deprive our government, whether through executive or legislative action, to undertake measures that will Protect Filipino enterprises.

The results show 17 votes in favor of the motion for reconsideration, 25 against, and 1 abstention; so the motion for reconsideration is lost.

SUSPENSION OF SESSION

MR. RAMA: Madam President, I move for the suspension of the session until two-thirty this afternoon.

THE PRESIDENT: The session is suspended for lunch until two-thirty this afternoon.

It was 12:51 p.m.

RESUMPTION OF SESSION

At 2:43 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 470

(Article on Local Governments)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: Madam President, I move that we consider Proposed Resolution No. 470 on the Article on Local Governments.

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

So the body will proceed to continue its deliberations on the proposed Article on Local Governments.

May we request the honorable Chairman and members of the Committee to please occupy the front table: Commissioners Nollado, Alonto, Bennagen, Calderon, Tingson, Rosales, de Castro, Regalado, Rigos, Jamir and Ople.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: In our last session, we deferred action on Section 3 of Resolution No. 470 which is a consolidation of Committee Report Nos. 21 and 25. Commissioner Maambong now seeks to amend Section 3 of the said resolution.

MR. MAAMBONG: Madam President, may I be given a few minutes? It is still being reproduced so that all the Members will have copies of my amendment.

THE PRESIDENT: So, can we proceed to the next?

MR. NOLLEDO: Madam President, Commissioner Rama, the Floor Leader, is recommending to the body that we

consider immediately the topic on autonomous regions. So if there is no objection on the part of any Member of the Commission, the Committee has no objection to the request of Commissioner Rama.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Before we take up the autonomous regions, will the Committee consider a short section after Section 2 to read as follows: THE TERRITORIAL AND POLITICAL SUBDIVISIONS UNDER THE LOCAL GOVERNMENT CODE SHALL CONTINUE TO ENJOY LOCAL AUTONOMY?

The reason I propose this simple section is that there is no specific statement that all these local government units, the provinces, cities and municipalities, are also entitled to local autonomy. I suppose some would say that it is taken for granted or that it is conceded, but there is no clear statement or express statement that these political units should continue to enjoy local autonomy.

When we go to the autonomous regions, they would have local autonomy, but it does not mean that only the two autonomous regions, Muslim Mindanao and Cordillera, will have local autonomy. All the other provinces, cities and municipalities as political units will also enjoy local autonomy.

MR. NOLLEDO: I think that amendment is unnecessary in the light of the provision in the report of the Committee on Transitory Provisions that all presidential decrees, executive orders, et cetera, shall continue to exist until repealed or amended by the regular Congress. The Local Government Code, which is Batas Pambansa Blg. 337, is deemed included under that provision. That is aside from the fact that in the Commissioner's absence, Section 2, line 13, was amended by Commissioners Monsod and Davide where they added the words "instituted through a system of decentralization."

In view of these reasons, the Committee regrets that it cannot accept the amendment.

MR. PADILLA: The Transitory Provisions has reference to existing laws, particularly presidential decrees, executive orders, letters of instructions.

MR. NOLLEDO: Including Batas Pambansa.

MR. PADILLA: Yes. As a matter of fact, I am not very much in favor of a provision that will make operative and continuously enforce these unilateral decrees during the Marcos regime. In some instances, I tried to make a distinction between a Batas or a Republic Act or a Commonwealth Act, passed by the Legislative Assembly and approved by the President, and these presidential decrees, executive orders and letters of instructions which were issued by the deposed President. In the exercise of Amendment No. 6, the latter were all unilateral acts. The Local Government Code is a Batas Pambansa. So the local autonomy that is enjoyed by our political units, which is decentralization of central authority and which is recognized in the Local Government Code and, I suppose, in many other provisions of law, should not depend upon the Transitory Provisions.

MR. OPLE: Madam President, will Commissioner Padilla yield to a question?

MR. PADILLA: Gladly.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you.

I want to know more precisely the intention behind the proposal for a new section. Does the Commissioner think of creating a new section right in the forefront of this Article on Local Governments which is in the nature of a

philosophical statement to the effect that all local governments shall enjoy autonomy?

MR. PADILLA: Yes, not only philosophical; it is actually the situation and perhaps we can even increase the local autonomy of these political units: the provinces, cities and municipalities.

We speak of the autonomous regions of Muslim Mindanao and Cordillera, well and good. But with regard to the political units, I suppose it is taken for granted that they also exercise local autonomy. There is no specific statement in the committee report.

MR. OPLE: In other words, Madam President, although the Committee insists that the whole Article operationalizes the concept of decentralization of powers and local autonomy for all, the Commissioner would like to make this a more explicit statement in one separate section, maybe ahead of the other sections?

MR. PADILLA: Yes, I was suggesting after Section 2.

MR. NOLLEDO: Madam President, I think Commissioner Ople has a misapprehension of the recommended provision because there is the word "continue." As Chairman of the Committee, may I be allowed to explain further. The recommended provision reads: "THE TERRITORIAL AND POLITICAL SUBDIVISIONS UNDER THE LOCAL GOVERNMENT CODE SHALL CONTINUE TO ENJOY LOCAL AUTONOMY."

MR. PADILLA: We can eliminate the words "CONTINUE TO," if that will be one of the Commissioner's objections. Hence the phrase will read: "SHALL ENJOY LOCAL AUTONOMY."

MR. OPLE: Yes, the phrase "SHALL ENJOY LOCAL AUTONOMY" will reflect the intent of the proponent much better, since to merely continue an existing policy for local autonomy might be inconsistent with the spirit of this new Article which is for increasing local autonomy.

MR. PADILLA: I agree.

MR. OPLE: So if that is the intent of Commissioner Padilla, I think that statement will not be superfluous. It can elevate to a statement of philosophy the intent of the whole article for decentralizing governmental powers in favor of the local units. So if the Commissioner can formulate that amendment, I would like to express my support for it, Madam President.

MR. PADILLA: As I stated earlier, I was suggesting to add after Section 2 a separate section which will read as follows: THE TERRITORIAL AND POLITICAL SUBDIVISIONS UNDER THE LOCAL GOVERNMENT CODE SHALL ENJOY LOCAL AUTONOMY.

MR. NOLLEDO: Madam President, as the last statement of the Committee, the Monsod-Davide amendment on line 13, by the use of the words "instituted through a system of decentralization," would render the proposed amendment of Commissioner Padilla a superfluity.

THE PRESIDENT: Chairman Nolleddo will state that particular amendment being referred to.

MR. NOLLEDO: The Monsod-Davide amendment is in Section 2, line 13. I will read a portion of Section 2, including those amended portions: "The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization . . ." And for us to state here that "THE TERRITORIAL AND POLITICAL SUBDIVISIONS SHALL ENJOY LOCAL AUTONOMY" would seem to be a superfluity.

THE PRESIDENT: What does Commissioner Padilla say?

MR. PADILLA: Madam President, while we say that local autonomy is essentially decentralization of the

government's central powers and authority, it is clearer to emphasize local autonomy rather than mere decentralization, especially because in the subsequent portions of this Article, we are talking of autonomous regions. It might give the wrong impression that only these two autonomous regions of Muslim Mindanao and Cordillera enjoy local autonomy.

I believe it is important to stress also that all these political units such as the provinces, cities and municipalities should enjoy local autonomy.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I offer an amendment to the amendment?

THE PRESIDENT: The Commissioner may proceed.

MR. DAVIDE: After the word "decentralization" as earlier read by the Chairman, add the following words: "AND LOCAL AUTONOMY," so it will now read "instituted through a system of decentralization AND LOCAL AUTONOMY."

THE PRESIDENT: So there will be no need for a new section?

MR. DAVIDE: Yes, there is no need for a new section.

THE PRESIDENT: What does Commissioner Padilla say? Is that satisfactory?

MR. PADILLA: I believe that a very simple statement as I proposed would be better. It will be clearer. And perhaps it can even be after Section 1 instead of Section 2.

MR. NOLLEDO: We would like to submit the question to the floor, Madam President.

MR. PADILLA: Maybe we do not have to mention the Local Government Code, because we are contemplating not only the present autonomy being enjoyed, but also some more or increasing local autonomy. So, my proposal would read, and I suggest that it be placed after Section 1: THE TERRITORIAL AND POLITICAL SUBDIVISIONS SHALL ENJOY LOCAL AUTONOMY.

VOTING

THE PRESIDENT: Those in favor of the proposed amendment of Commissioner Padilla will please raise their hand. (Several Members raised their hand.)

Those against the amendment will please raise their hand. (No Member raised his hand.)

The results show 29 votes in favor, none against and no abstention; the amendment is approved.

MR. NOLLEDO: So, it will now be Section 3, Madam President.

MR. OPLE: It is placed before Section 3; hence it would be numbered Section 2.

MR. NOLLEDO: Madam President, we agree to make it Section 2.

THE PRESIDENT: Who is the next proponent?

MR. RAMA: Commissioner Maambong has an amendment.

MR. NOLLEDO: Commissioner Maambong's amendment will be on Section 4 now. Section 3 has become

Section 4, Madam President.

THE PRESIDENT: Do we have copies now?

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong may proceed.

MR. MAAMBONG: The amendments which are being proposed by this Representation, Commissioners Bengzon, Ople, Natividad, de los Reyes and Colayco in Section 3, which is now Section 4, consist of the following: Before the sentence, insert the word EXISTING, then delete the first part of the sentence which reads: "The local government code may provide that"; then after the word "cities," delete the word "as" and substitute the words AND THOSE; and after the word "standards," insert the phrase ESTABLISHED BY LAW.

In the second sentence, delete the words "a city" and insert COMPONENT CITIES; then after the word "within," substitute the article "A" for the word "the"; after the words "vote for," delete "the"; after the word "officials," insert a comma (,) and the phrase UNLESS THEIR RESPECTIVE CHARTERS PROVIDE OTHERWISE; and after that, insert a new sentence which is indicated in our formulation. The whole Section 4 would now read: "EXISTING highly urbanized cities, AND THOSE determined by reasonable standards ESTABLISHED BY LAW, shall be independent of the province. However, the voters of COMPONENT CITIES within A province shall not be deprived of their right to vote for elective provincial officials, UNLESS THEIR RESPECTIVE CHARTERS PROVIDE OTHERWISE."

The second paragraph, which is a new one, reads: THE ELECTORATE OF HIGHLY URBANIZED CITIES SHALL NOT VOTE IN THE ELECTION FOR PROVINCIAL OFFICIALS OF THE PROVINCE IN WHICH IT IS LOCATED: PROVIDED, HOWEVER, THAT NO COMPONENT CITY SHALL BE DECLARED OR BE ENTITLED TO A HIGHLY URBANIZED CITY STATUS WITHIN NINETY DAYS PRIOR TO ANY ELECTION.

We respectfully present this to the Committee, Madam President.

THE PRESIDENT: Will this be Section 4?

MR. MAAMBONG: Yes, Madam President.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Will Commissioner Maambong yield to just one question? I just want to be enlightened as to the distinction between "highly urbanized cities" and "component cities." Will the Commissioner please tell me the precise distinction between the two?

MR. MAAMBONG: Yes. The present Local Government Code, specifically under Section 165 thereof, classifies cities into component or highly urbanized. Section 165 provides:

Cities Classified. — A city may either be component or highly urbanized. Highly urbanized cities, as hereinafter provided, shall be independent of the province.

I understand that as of this moment, there are some 13 highly urbanized cities in the whole country. And in highly urbanized cities so organized, their voters are not allowed to vote in the election of provincial officials in the province where the city is situated. This question was raised before the Supreme Court in the case of Ceniza vs. COMELEC. The position of the petitioner was that the voters of highly urbanized cities should be allowed to vote

for their elective provincial officials otherwise this will violate the principle of republicanism. But in resolving the issue, the Supreme Court said that whether the prohibition imposed on voters of highly urbanized cities from voting in provincial elections subverts the principle of republicanism by depriving them of the right to participate in governmental exercise of suffrage, still there is no violation of the principle because provinces have no jurisdiction over highly urbanized cities. It is for this reason that the configuration which we, together with Commissioner Bengzon and others, are presenting is to the effect that voters of highly urbanized cities should not be allowed to vote for the election of provincial officials.

BISHOP BACANI: May I know who determines that a particular city will be classified as a highly urbanized city or just as a component city? Is it the charter itself of the city or is it through some other legislative enactment?

MR. MAAMBONG: There are criteria specifically indicated in the Local Government Code. It is indicated in Section 167, and I will read so that it will be very clear:

Criteria for elevation of a component city to a highly urbanized city — A component city may become a highly urbanized city if it meets the criteria specified in the preceding section.

Section 166 says:

Highly Urbanized Cities. —

(1) 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, shall be classified as highly urbanized cities.

(2) Cities which do not meet the above requirements shall be considered component cities of the province in which they are geographically located. If the component city is located within the boundaries of two or more provinces, said city shall be considered a component of the province of which it used to be a municipality.

BISHOP BACANI: So a component city can become automatically a highly urbanized city once it reaches a certain population and income level?

MR. MAAMBONG: Under the Local Government Code, it is not automatic. The city itself has to apply. Under the present system now the application will go through a process through the Ministry of Local Government.

BISHOP BACANI: Thank you very much.

MR. MAAMBONG: Thank you.

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

THE PRESIDENT: Commissioner Treñas is recognized.

MR. TREÑAS: What is the difference between a highly urbanized city and a component city?

MR. MAAMBONG: As far as juridical personality is concerned, there is actually not much difference because as we all know, all cities have their own charters which grant rights to them, such as the right to sue and be sued and so on. But the main difference in classification is actually the population level and the income level. To my mind, that is the main difference between the component and highly urbanized cities.

MR. TREÑAS: So, for practical purposes, there is no difference between a highly urbanized city and a component city according to the Commissioner, except the population and income?

MR. MAAMBONG: Yes.

MR. TREÑAS: Is there any benefit when a city becomes highly urbanized as contradistinguished from a component city?

MR. MAAMBONG: There is a difference because under the present configuration of our laws, if the city is a component city and we apply the provisions of the Local Government Code, there is a supervisory control of the province over component cities. Let us take, as an example, an ordinary municipality. All ordinances of a municipality or a component city will have to be approved by the province. So, in effect, it is treated as if it is a mere municipality. All ordinances go to the Sangguniang Panlalawigan. That is as far as the Local Government Code is concerned. Unfortunately, the provisions of the Local Government Code have not been fully implemented. The Chairman of the Committee on Local Governments will note that the said provisions have not been fully implemented.

When I was a member of the Provincial Board of Cebu, we never approved ordinances of component cities because at that moment, the provisions of the Local Government Code were not fully in effect.

MR. TREÑAS: Is it not a fact that most of the inhabitants especially in small cities have properties or interest in the province?

MR. MAAMBONG: Yes, that is true.

MR. TREÑAS: Following that admission, is it not more logical for the residents of the city to be allowed to vote for the officials of the province?

MR. MAAMBONG: It would be a bit logical because if we allow the voters of highly urbanized cities to vote for provincial officials, then it goes without saying that residents of the province should be allowed to vote for the election of city officials. It would not look good because at present, these people who are voters in the province are not really allowed to vote in the election of city officials.

MR. TREÑAS: The Commissioner mentioned as a basis for his argument the case of *Ceniza vs. Commission on Elections*; that is, Vol. 95, SCRA.

MR. MAAMBONG: Yes.

MR. TREÑAS: Is it not a fact that that case was decided on the basis of Batas Pambansa Blg. 51 providing local elections for January of 1980?

MR. MAAMBONG: That is correct.

MR. TREÑAS: Therefore, it does not necessarily follow that if in our present Constitution we allow the residents of the city within a province to vote, it will be contrary to this particular jurisprudence that the Commissioner has cited?

MR. MAAMBONG: Let me put it this way. The Commissioner was referring to Batas Pambansa Blg. 51. But the Commissioner should pay attention to the provisions of the 1973 Constitution itself.

MR. TREÑAS: Yes.

MR. MAAMBONG: Article XI, Section 4 (1) of the 1973 Constitution provides:

... provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barrios, shall ensure that the acts of their component units are within the scope of their assigned powers and functions. Highly urbanized cities, as determined by standards established in the local government code, shall be independent of the province.

The keywords to the whole thing under the 1973 Constitution are the words "shall be independent of the province." This phrase has been repeated several times in Sections 15 and 165 of the Local Government Code to the extent that this provision in the 1973 Constitution and the provisions of Sections 15 and 165 of the Local Government Code actually jibe with the decision of the Supreme Court in the case of *Ceniza vs. COMELEC*.

MR. TREÑAS: Precisely, those articles or provisions were mentioned, first, because of the existence of Section 4 (1), Article XI of the 1973 Constitution and Batas Pambansa Blg. 51. Am I right?

MR. MAAMBONG: Yes.

MR. TREÑAS: My last question is: Would it not be fair for the inhabitants or residents of a city, especially a small city, to allow them to vote for the province since they have already been voting for the provincial officials for many years?

MR. MAAMBONG: In the case of highly urbanized cities, considering that the province itself has no more supervisory jurisdiction over them or there is no more umbilical cord connecting the highly urbanized city and the province, in contradistinction to component cities, I feel that it is only logical that the voters of a highly urbanized city should not be allowed to vote for the election of provincial elective officials and vice-versa.

MR. TREÑAS: But a city, whether highly urbanized or not, has its own organic act.

MR. MAAMBONG: Yes. All of them are covered by charters or special laws.

MR. TREÑAS: And those should govern.

MR. MAAMBONG: Yes, those should govern.

MR. TREÑAS: Thank you.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: May I ask a clarificatory question of the proponent?

THE PRESIDENT: Please proceed.

MR. DE CASTRO: Thank you. Commissioner Maambong stated that the highly urbanized city shall be independent of the province. Is that right?

MR. MAAMBONG: That is not according to me; that is according to the 1973 Constitution as also provided in Section 15 and Section 165 of the Local Government Code.

MR. DE CASTRO: Section 166 of the Local Government Code states that urbanized cities with a minimum population of 150,000 shall be classified as highly urbanized cities.

MR. MAAMBONG: Yes, that is the minimum population requirement to qualify as a highly urbanized city.

MR. DE CASTRO: If the urbanized city has less than 200,000 population, will it be entitled to one Congressman?

MR. MAAMBONG: As far as the provisions of the Legislative Department are concerned, the ratio is one representative for a 200,000 population of a legislative district.

MR. DE CASTRO: So that a highly urbanized city with a population less than 200,000 shall not be entitled to one seat in the Lower House. Am I correct?

MR. MAAMBONG: From my understanding during the discussion of the Committee on the Legislative, a highly urbanized city is entitled to one seat. I just want to correct that. According to the Chairman of the Committee on the Legislative, even if it is a highly urbanized city, if it has a population below the requirement of 200,000, the city will not be entitled to one seat in the House of Representatives.

MR. DE CASTRO: So, a highly urbanized city shall be part of the province in the election for Congress if its population is less than 200,000. Is that correct?

MR. MAAMBONG: I feel that it would have to be computed that way.

MR. DE CASTRO: And in Commissioner Maambong's proposed amendment, the highly urbanized city shall be independent of the province in the election of provincial officials. Am I correct?

MR. MAAMBONG: Yes, because we have to distinguish between the election of local officials and the election of national officials.

MR. DE CASTRO: It will then appear that a highly urbanized city with less than 200,000 population shall be part of the province in the election for Congressmen, whereas it is independent in the election for provincial officials. Am I correct?

MR. MAAMBONG: I cannot argue against that statement. But please take note that the standard of 150,000 population set by the Local Government Code may be subject to amendment in order that it will jibe with the present configuration as proposed by the Committee on the Legislative.

MR. DE CASTRO: Thank you.

MR. JAMIR: Madam President, may I ask a question?

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: According to this proposal of Commissioner Maambong, voters of component cities may vote for elective provincial officials if their charters so provide. Am I right?

MR. MAAMBONG: Yes.

MR. JAMIR: Now, supposing that at the time of the ratification of the Constitution, the charter of a certain component city provides that each voter can elect provincial officials but subsequently the charter was amended, so as to deprive them of the right to vote for elective provincial officials, can they continue voting?

MR. MAAMBONG: A charter creating a city is, as we all know, like any ordinary law.

MR. JAMIR: That is right.

MR. MAAMBONG: It can be modified, amended, repealed, and some powers may be taken out except the basic powers of the city. Now if the charter will be amended by Congress, then that amendatory provision will have to prevail.

MR. JAMIR: I see. So, they will be deprived of the right to vote.

MR. MAAMBONG: They will be deprived of the right to vote. Why would the proponent allow the legislature to deprive the voters of the right to vote in provincial elections when component cities are under supervision of provinces?

MR. MAAMBONG: I am not going to shed tears over the clause "UNLESS THEIR RESPECTIVE CHARTERS PROVIDE OTHERWISE," because even before the Gentleman can give me his reason, I can already see the

rationale there. I am even thinking that voters of component cities be allowed to vote for elective provincial officials even if their charter disallows them to vote at the present time. In other words, the charter of that particular component city which does not allow them to vote for elective provincial officials will have to be aligned to be consistent with the provisions of the Constitution.

FR. BERNAS: I wonder if the proponent would entertain an amendment to drop that clause because the very concept of a component city is that the city, although it has its own juridical personality, is called component precisely because it is still part of the province. And because it is still part of the province, its inhabitants will have a say in the election of the officials of that province. So, for as long as the city is merely a component city and not a highly urbanized city yet, its inhabitants should not be deprived of the right to vote for the provincial officials. So, my proposed amendment is to drop the last clause.

MR. MAAMBONG: If the Gentleman's amendment to my amendment in Section 3 is to delete the second sentence of the first paragraph starting with the word "However" up to the last word "otherwise," I am willing to accept the amendment.

FR. BERNAS: No, Madam President. My amendment would read as follows: "However, the voters of THE COMPONENT CITIES within the province shall not be deprived of their right to vote for elective provincial officials."

MR. MAAMBONG: Just a moment. I mentioned earlier that I am not the only proponent here; Commissioner Bengzon is also a proponent. With the permission of the Chair, I would like to turn over the lectern to Commissioner Bengzon.

THE PRESIDENT: Commissioner Bengzon is recognized.

FR. BERNAS: But we are talking here of component cities; we are not talking about highly urbanized cities. Besides, the very concept of component cities is that they still form part of the province although juridically distinct, and are still subject to the jurisdiction of the province. If they are subject to the jurisdiction of the province, then they should have a say on who should govern the province.

MR. BENGZON: No, but there are component cities which are independent of the province by the very nature of their charter. They elect their own mayors and city officials, and the province does not really have anything to do with them. But they are not qualified to become highly urbanized, precisely because they are unable to meet the standards.

FR. BERNAS: Then I would have a quarrel with the word "component," because if they are totally independent of the province, then they are not component cities. "Component" really has reference to the relationship to the province.

MR. BENGZON: They are component in the sense that they are part or geographically part of the province.

FR. BERNAS: No, I think it is because they are juridically part of the province.

MR. BENGZON: Then there is a difference of opinion on the definition of "component." For example, in my Province of Pangasinan, we have two cities, San Carlos City and Dagupan City, whose charters specifically prohibit the voters from electing provincial officials because these two cities could dominate the provincial seats from governor all the way down. Residents of these two cities could combine and would have a very undue advantage of dominating the elections for the seats in the provincial government. However, they are not qualified to become highly urbanized and, therefore, in their charters it is so stated that they cannot vote for provincial officials.

So they are at that particular level, and this is what I mean when I insist on inserting this clause: "UNLESS THEIR RESPECTIVE CHARTERS PROVIDE OTHERWISE."

Conversely speaking, in the case of San Jose City in Nueva Ecija which is a component city, it is a small city and yet it is a city, and it is within the jurisdiction of the province.

FR. BERNAS: Do I take it therefore that there are actually three kinds of cities now, not just highly urbanized cities and component cities, but we also have highly urbanized cities, component cities which are under the jurisdiction of the province and nonhighly urbanized cities which are not component cities?

MR. BENGZON: It comes out to that because these highly urbanized cities just came later on. Actually, there were really two kinds of cities before — the component cities and those cities whose charters prohibit their voters from voting for provincial elective officials. This term "highly urbanized cities" just came in lately within the last twenty years.

FR. BERNAS: I quite realize that there is a variety in the provisions of the various charters of the cities, but even before we started talking about highly urbanized cities, there were differences in these charters as to whether or not they provide that residents of a city could vote in a province. That is a fact.

MR. BENGZON: Yes.

FR. BERNAS: What I am trying to say is that perhaps we should try to make uniform rules for these nonhighly urbanized cities. In all fairness, because they are subject to the jurisdiction of the province they should have a say on who should rule the province, otherwise we will have to face the problem of equal protection. I quite realize that the Ceniza case faced the issue of equal protection but in a very unconvincing way, I must say.

MR. BENGZON: Yes, but then if we are going to eliminate this clause which I am talking about, we will give way to an anomalous situation where residents of these big cities which, under definition, are still not qualified as highly urbanized will be able to dominate the provincial seats. Perhaps, we could keep these three categories and face the facts and recognize that until such time as these cities whose charters prohibit them from voting for the provincial elective officials shall be qualified to become highly urbanized cities and, therefore, become totally independent, then they should remain as such because these cities by their very charters are also independent of the province, like Dagupan, for example.

FR. BERNAS: I would go along for a uniform classification where we have highly urbanized cities which are independent of the province and, therefore, do not vote in the province; nonhighly urbanized cities independent of the province by reason of their charters; and then component cities.

MR. BENGZON: Yes. So, with that concept, I would be willing to reword Section 4.

FR. BERNAS: In other words, component cities, precisely because they are component, should always have the right. And though not highly urbanized, they are independent cities, would they not be considered component anymore?

MR. BENGZON: I would be willing to go along with that concept, with that interpretation and, therefore, let us craft it in such a way that there are really three kinds of cities.

FR. BERNAS: I would go along with that, if that has to be the case but the only thing I would be against is having a city that is under a province but deprived of the right to vote for the officials of the province.

MR. BENGZON: And is not independent.

FR. BERNAS: And is not independent.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: My question will be propounded to the main proponent, Commissioner Maambong.

THE PRESIDENT: Please proceed.

MR. DAVIDE: Will Commissioner Maambong agree with me that in the exercise of its broad and plenary powers in enacting a Local Government Code, Congress itself may provide for the manner of the election of the officials of local government units and all other matters related to the relationship between one local unit and another local unit?

MR. MAAMBONG: As far as the relationship between local government units is concerned, Congress has the power; but as far as the mode or procedure in the election of local government officials is concerned, Congress also has the power but that would properly fall under the provisions of the Election Code.

MR. DAVIDE: Talking about the Local Government Code, would the Gentleman not agree with me that the Code itself will provide that voters in highly urbanized cities cannot vote for provincial elective officials in the province where the highly urbanized city is located?

MR. MAAMBONG: Congress can provide for such legislation, as long as it is consistent with the provisions of the Constitution.

MR. DAVIDE: Precisely.

MR. MAAMBONG: I would like to explain that. When Congress enacted the Local Government Code which provides for provincial and city relations, as well as that the electorate of highly urbanized cities shall not vote in the election for provincial officials, it approved this legislation because this was a provision of the 1973 Constitution under Article XI, Section 4 (1).

MR. DAVIDE: In other words, without Section 2, Article XI of the 1973 Constitution, it was well within the plenary power of the legislature to provide a restriction against city voters voting for provincial elective officials.

MR. MAAMBONG: Let me put this properly in its historical context. At the moment when there was yet no provision in the 1973 Constitution which I adverted to, the basic criteria used by Congress in its provisions in the Election Code was the individual charter of the cities concerned. For example, if the charter of the city provides that the city voters should not vote for the provincial elective officials, then Congress was guided by this charter. In the case where the charter was silent on that kind of provision, then Congress took it to mean that the voters in that particular city are allowed to vote for elective provincial officials. The guideline then was based on the charter of a particular city, in the absence of the previous guideline now indicated in the 1973 Constitution.

MR. DAVIDE: In other words, without the proposed Section 4 now, Congress would have the ample flexibility to determine, in the creation of a city, whether or not the voters in that city can vote for the provincial officials.

MR. MAAMBONG: I agree wholeheartedly.

MR. DAVIDE: In other words, without the proposed Section 4, it would be proper now for the Local Government Code to make such a provision or not to make any such provision.

MR. MAAMBONG: That is correct.

MR. DAVIDE: Therefore, we can now delete Section 4, because we still leave it to Congress to determine whether or not the voters in a particular city may be allowed to vote for the provincial elective officials.

MR. MAAMBONG: I would not agree with that, considering that even in our configuration of Section 2, we had that provision, but which was already deleted, that there will be no change in the existing form of local government units. The Gentleman might think that when we change a highly urbanized city to a component city, this does not affect the form. I feel that this affects the form, and I think the highly urbanized cities now existing have already acquired some vested rights on this matter.

MR. DAVIDE: The deletion of the second paragraph of the original Section 2 precisely broadens the authority of the legislature. At any time it can change; even the Local Government Code can change the existing form of the local government. That was debated upon last Saturday, I guess. That was the amendment of Commissioner Ople. I objected to it because it would now allow the Local Government Code to adopt any other kind of structure of government for the local officials.

With the deletion, it would necessarily mean that Congress now has a much wider prerogative to establish a system of local governmental units, to establish the relationship between a city and the mother province, regardless of the classification of the city — whether it is highly urbanized or component. The point is, Section 4, as now sought to be amended, is not necessary. It is a superfluity if we take into account the totality of the original Section 2, without the last paragraph.

Does not the Commissioner believe so?

MR. MAAMBONG: I do not believe so. I still maintain that logic demands, if not the law itself, that there should be some kind of classification of cities. Let us take the case of Bais City, which looks like a barrio to me, without any offense meant, of course.

MR. DAVIDE: That is exactly the point. If we want to have logic, we should leave it to the Local Government Code because it is only the Local Government Code that could probably harmonize. With the provision now, as the proposed amendment is worded, there will be a lot of confusion. We will be classifying cities not only into two, but possibly three or four. In addition to what has been admitted regarding the question of Commissioner Bernas, not only do we have a highly urbanized city, a component city, but we will also have a highly urbanized city which is at the same time a component city, because according to the apportionment provided in Section 5 of the Article on the Legislative/National Assembly, we actually increase the requirement of population as one of the bases for classifying a city into a highly urbanized city.

In addition to these, we might have a less urbanized city. Therefore, if we have to harmonize everything or if we have to attain logic, we better delete this particular section and leave it to the Local Government Code to provide for the proper approach to this very illogical situation. Does not the Commissioner believe so?

MR. MAAMBONG: I do not believe so. Let me give my reason why we should make a classification in the Constitution itself. The reason why there are chartered cities where voters are allowed to vote for provincial elective officials, and there are chartered cities where voters are not allowed to vote is that before there were no guidelines provided in the Constitution. So what was the result? We had served the Members of Congress who are politicians. If there is no guideline, politicians always try to protect their self-interest, and that is why we do not have uniform charters of our cities.

If we do not provide certain forms of criteria, the same thing will happen where a very small city will be granted or denied rights which are only proper to be granted or denied a highly urbanized or a bigger city. Another point is, this Article on Local Governments makes liberal use of the Local Government Code. As I understood from the Chairman of the Committee, he said that under the present configuration of the Transitory Provisions, all the laws are supposed to be valid. In this Article, Section 11, for example, says "established in the Local Government

Code." There are already criteria, so why do we have to disturb these? What could be our reason for disturbing these criteria?

MR. DAVIDE: There are several reasons why we must disturb the criteria. First of all, the Local Government Code as presently worded does not actually vest real autonomy on the local governmental units. The Commissioner will notice in the provision of the Local Government Code that the local governmental units are all linked to the so-called national agencies having offices within the local governmental units. So, in short, since the idea now is to provide for a more decentralized government of the local governmental units and greater local autonomy pursuant to the Padilla amendment, the entire Local Government Code as now existing needs reassessment, total review, total surgery, as a matter of fact.

On the matter of existing charters of some cities which specifically provide that the voters in that particular city cannot vote for elective provincial officials, the determination thereof was based on a specific criteria then existing at the time. It was the collective wisdom of the Congress to determine whether for a particular city to be granted a charter, it also provides for the disenfranchisement of the voters of that city in the matter of the election of the local provincial officials or otherwise.

But under the proposal of Commissioner Maambong to incorporate the clause "UNLESS THEIR RESPECTIVE CHARTERS PROVIDE OTHERWISE," we are, in effect, making it difficult or impossible for the succeeding Congress to even repeal or modify the charters of existing cities where the voters are not allowed to vote for provincial officials. This will be a class legislation of the highest order because for these cities now where voters are not allowed to vote for the provincial officials, the charters can no longer be repealed, modified or amended by Congress because we are already putting it here. We are, in effect, institutionalizing the disenfranchisement of the voters of this particular city from voting for the provincial officials pursuant to their charter, whereas new cities will be created, with flexibility given to Congress. But I am more concerned with the existing cities with such charters.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: May we invite the three Cebuanos on the floor who are apparently exporting some of their problems to the Constitutional Commission so that we can understand the problem better and how these concepts apply to Cebu.

MR. DAVIDE: Madam President, I would say that the problem in Cebu has not been taken into account in my interpellations. And that is the reason why I propose to delete the section and leave it to the Local Government Code to decide on harmonizing conflicting charters.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I would like to speak against the amendment of Commissioner Maambong. The major premise, Madam President, is that this provision now existing as proposed in the Local Government Code is an anti-warlordism provision — that is a reality that we have to address. There are evils in this government which cannot be solved in the vacuum of theories and philosophical arguments. Let us go into the history of these cities whose voters had been disenfranchised.

The history is this. All these cities were allowed to vote for their provincial elective officials. Now, came the warlords, particularly during the time of Mr. Marcos. Their ploy was this: They disallowed these centers of

population and centers of media and schools from voting because they could not establish their political fiefdoms if the city voters, who are more informed, were allowed to vote. That is the history of all the cities whose voters had been disenfranchised. It was at the behest of the warlords in order to entrench themselves that they were disenfranchised. Reality and the fact shows that they could not establish and entrench themselves if the cities were allowed to vote.

Now, the most powerful argument en contra was the one that was set forth by Commissioners Bernas and Monsod. Why should the city voters be allowed to vote for their elective provincial officials when the province itself does not have jurisdiction over the city? That is a beautiful, wonderful, theoretical, constitutional argument — an artful argument. But the fact is that the election of warlord chieftains as heads of the province affects the lives of the citizens in the cities. We all understand, Madam President, that the cities in the provinces cover small areas. Although the cities are beyond the jurisdiction of the province, when one is a resident of the city and wishes to go out of that city, he is affected by the provincial government of the warlords. For instance, there were people in the City of Cebu, particularly NAMFREL members, who wanted to go to a certain town. But because the warlord had control over the province, they were terrorized; they could not get out of the city; they could not enter certain towns. And yet, city voters' families live there; their interest and properties are there.

I am addressing a specific problem of the evil of warlords. The warlords control the province because they disenfranchise the voters who cannot be terrorized because they are better informed and are larger in number. This will allow the warlords to thrive and to survive and terrorize the whole province.

We are talking about the jurisdiction of the province. It is true the province has no jurisdiction over the city nor the people in a city. But the seats of government of the provinces are in the cities. When we allow the warlords to win because they had gerrymandered these voters out of the provincial election, they control even the cities to a certain extent that they bring their goons into the cities and the peace and order condition there, particularly cities which are the seats of provincial governments, is affected. That is why the voters in the City of Cebu have been crying for and demanding their right to vote so that they could have a say as to who are going to be the heads of the province. This is because the provincial government or the officials of the province affect their lives. As a matter of fact, their right to vote is affected also. And in the case of the last election, for instance, we could not go to certain towns because the warlords had control of the province and we could not campaign for our presidential candidate.

So, this is a very real problem that cannot be solved by just going into the vacuum of constitutional or philosophical arguments. The main thrust of the provision now is to try to solve this great evil of warlordism which has thrived and is still existing up to this time.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I really would have wanted to discuss this proposed amendment without any reference to a particular province or a particular city because we are talking here of a constitutional provision. If we start relating a constitutional provision, which is supposed to set up certain standards and guidelines to particular problems, we are going to get lost.

The honorable Floor Leader talked of warlordism. I do not want to waste the time of the Commission, Madam President, but may I just remind Commissioner Rama that during the time of Senator Sergio Osmeña, Jr., he used the City of Cebu to control the whole province. He ran for city mayor; after two years, he ran for Congress; after two years, he ran for senator; then, he went back as city mayor and assigned a vice-mayor. Why? The theory was

this: Whoever controls the City of Cebu controls the whole Province of Cebu. And now, the present officer-in-charge, who has the namesake of former Senator Osmeña, Jr., I think, has the intention do the same thing — control the City of Cebu so that the Province of Cebu can be controlled. However, I would like to discuss this provision not on those terms, Madam President. I would like to discuss this in a very logical and dispassionate manner.

Commissioner Davide said that Congress can no longer revise charters of the cities because we inserted here the clause "UNLESS THEIR RESPECTIVE CHARTERS PROVIDE OTHERWISE." I think we are reading different laws on statutory construction. Congress can always revise laws, whether it is a charter a resolution, an ordinance or whatever. As long as it is a law, it can be revised, amended, repealed by Congress. And so, there is no fear. Commissioner Davide also mentioned the charters of different cities. I will repeat my argument here. The reason why the charters of different cities have different provisions is precisely that there were no criteria or standards set in the 1935 Constitution. We already started this in 1973. It is already incorporated in the Local Government Code. Why do we not leave it at that, Madam President?

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

THE PRESIDENT: Commissioner Tingson is recognized.

MR. RAMA: Madam President, just one statement. Could Commissioner Tingson allow me just one statement?

It was mentioned here by Commissioner Maambong that Sergio Osmeña, Jr. abused or took advantage of the situation then, where the city voters were allowed to vote. But it must be realized, Madam President, that precisely, thanks to the voters in the City of Cebu, Sergio Osmeña, Jr. was able to end a reign of terror at that time. Now, if the City of Cebu voters were not allowed to vote, he could not have ended a reign of terror in 1949 or 1950. That was the reason why the Cebu voters would like to vote, so that they would fight the terrorists in the province.

MR. MAAMBONG: Madam President, warlordism can be discussed from the standpoint of the person who is accused of being a warlord. I served under Senator Osmeña. I was one of his campaign managers way back. I have nothing against him. He was one of the heroes of our country, but let us look at it in this manner. When he was holding on to the reins of power in the City of Cebu, he had control of the Province of Cebu. He dictated everything. He ran for mayor; he ran for Congress, went back to being mayor, became senator, came back as mayor, why? It was because the power situs was in the City of Cebu. Now, if we are talking of warlordism from the side of the Province of Cebu, the same argument can be used; but I will not go on with this, Madam President.

THE PRESIDENT: Yes. Let us listen to Commissioner Tingson.

MR. TINGSON: Madam President, I hate to mention this but these fellow Cebuano Commissioners are exactly and specifically expressing the predicament in which we find ourselves in Negros Occidental.

Madam President, in that small Province of Negros Occidental, we have San Carlos City, Talisay City, Silay City, Bago City, Bacolod City and La Carlota City. If we eliminate all these people and do not allow them to select the governor, who will be voting for the governor? I mean, literally, nobody. Another interesting thing is, Madam President, the lives of these people in these cities are so intertwined with the whole province that it is almost ridiculous not to allow these people to vote for the person who will be ruling their lives. I hate to mention Negros and the local political situation we have there. That is why sometimes I think I am in favor of the amendment of Commissioner Davide to delete Section 4 and then just give it to the local charter and let the local assembly decide on it.

Thank you, Madam President.

MR. MAAMBONG: I hate to interrupt, Madam President, and forgive me, Commissioner Tingson, I think the Gentleman was following very well the discussion. We were talking about highly urbanized cities and component cities. We are not going to disenfranchise the component cities in his province because, precisely, they are component cities. If the component cities will be disenfranchised, there will be nobody to vote for the governors — the Gentleman is correct there.

But we are talking here of two different things. We are talking about classifying cities into component cities and highly urbanized cities.

THE PRESIDENT: What does the Committee say?

MR. DE LOS REYES: Madam President, may I ask some questions of Commissioner Maambong.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Commissioner Maambong, is it not a fact that the money collected by highly urbanized cities cannot be spent for public works improvement in the province?

MR. MAAMBONG: That is correct.

MR. DE LOS REYES: And vice versa, the money in the province cannot be used for expenses for the public improvements in highly urbanized cities.

MR. MAAMBONG: That is correct.

MR. DE LOS REYES: So for all practical purposes, they are independent of each other; they have nothing to do with each other.

MR. MAAMBONG: That is precisely why the 1973 Constitution says "shall be independent of the province." The Local Government Code says "shall be independent of the province." It is precisely because of that principle.

MR. DE LOS REYES: For example, someone from a highly urbanized city won in an election for a provincial office, he can divert some of the funds from the province for the highly urbanized city to the prejudice of the province, can he not?

MR. MAAMBONG: No, he cannot.

MR. DE LOS REYES: Thank you, Madam President.

MR. NOLLEDO: Madam President, the Committee has not reacted yet.

THE PRESIDENT: What is the reaction of the Committee?

MR. NOLLEDO: We would like that the question be resolved on the floor, but as Chairman of the Committee, I would like to express my support for the provision of which Commissioner Rama mentioned the laudable arguments.

Madam President, going over the provisions of Title Three of the Local Government Code will reveal that there are no special provisions on highly urbanized cities aside from the provisions on income level and population level. So, I find no fundamental difference between component cities and highly urbanized cities aside from the fact that these cities are unalterably located in the provinces and their affairs are interlinked with each other, so much so that the need for coordination on essential services like peace and order, urban and rural planning, is irresistible.

Thank you, Madam President.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Before we vote, may I ask whether we are going to vote on the entire Section 3, the two paragraphs of the suggested amendment; and, second, whether when we vote, we vote with an understanding that the amendments suggested by Commissioner Bernas are already included.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Thank you for the reminder, Commissioner Bacani. My coproponent, Commissioner Bengzon, has just given me a reformulation in order that the problem contemplated by Commissioner Bernas will be solved. And in the draft amendment that we have presented to the Committee, we would like to propose the following: on the second line of Section 3, after the word "cities," insert the words AS WELL AS THOSE CITIES WHOSE CHARTERS PROHIBIT ITS VOTERS FROM VOTING FOR PROVINCIAL ELECTIVE OFFICIALS, to be followed by a comma (,).

MR. NOLLEDO: What draft is the Gentleman using?

MR. MAAMBONG: The one I presented to the Committee. Let me repeat, Madam President: EXISTING HIGHLY URBANIZED CITIES AS WELL AS THOSE CITIES WHOSE CHARTERS PROHIBIT ITS VOTERS FROM VOTING FOR PROVINCIAL ELECTIVE OFFICIALS, AND THOSE DETERMINED BY REASONABLE STANDARDS ESTABLISHED BY LAW SHALL BE INDEPENDENT OF THE PROVINCE. HOWEVER, THE VOTERS OF COMPONENT CITIES WITHIN A PROVINCE SHALL NOT BE DEPRIVED OF THE RIGHT TO VOTE FOR ELECTIVE PROVINCIAL OFFICIALS.

MR. NOLLEDO: Madam President, before we vote, I think there are some grammatical defects in the proposal.

MR. MAAMBONG: Yes, I suspect so.

MR. NOLLEDO: With regard to the phrase "AND THOSE DETERMINED BY REASONABLE STANDARDS ESTABLISHED BY LAW," to what cities is the proponent referring?

SUSPENSION OF SESSION

THE PRESIDENT: I believe that there is need to suspend the session for a few minutes to clarify this matter.

The session is suspended.

It was 4:01 p.m.

RESUMPTION OF SESSION

At 4:54 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, so that we will not lose time, I suggest that we take this up step by step. I have talked to Commissioner Davide and I agree with him that the prejudicial question is whether we should delete the whole of Section 3, including the proposed amendments, because if we decide to delete, there will be nothing to talk about and we will not lose time. On the other hand, if the deletion will not be approved by the body, I will present a reformulated amendment, minus the proposed amendment of Commissioner Bengzon. We will separate that. And if my reformulated amendment will be approved, it will be the turn of Commissioner Bengzon to insert the form of amendment that he has in mind so that that would be voted on. So, the first issue is whether or not we are going to delete Section 3, including the proposed amendments.

Thank you, Madam President.

THE PRESIDENT: What does Commissioner Davide say?

MR. DAVIDE: I agree that the deletion is an anterior amendment and I seek for the deletion of the original Section 3, now Section 4, for the reason that I had respectfully submitted, to the Local Government Code in the light of what is provided for in Section 2, as follows:

The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanism, recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities and resources and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions, and duties of local officials, and all other matters relating to the organization and operation of the local units.

The provision is broad enough to allow Congress to provide that highly urbanized cities shall be independent of the province. As a matter of fact, in the proposed Section 4, the clause "The Local Government Code may provide" is directory in character. This means to say that we concede to the plenary authority of the Congress to provide in the Local Government Code everything related to decentralization and local autonomy and their respective relation, not only with the different local units but also of its inhabitants with the other units, for instance, cities in respect to the province. In short, Section 3 is a superfluity. It is not necessary. So, my proposal is to delete the whole of Section 3 or 4.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I am, of course, against the deletion because as I have mentioned earlier, it is necessary that the Constitution should provide a classification of cities into highly urbanized cities and component cities; otherwise, if we rely solely on the prerogative of Congress, what happened in the past, Madam President, will happen again. If there is a politician who is strong enough, he will sway Congress one way or another to allow one city to vote, while another politician would not allow another city to vote, depending on the winds of politics. So, I feel — and I would agree with the statement of Commissioner Bernas — that there should be some form of classification, but it should be limited to two classifications — highly urbanized cities and component cities.

I oppose the motion to delete, Madam President.

MR. BENGZON: Madam President, may I ask a question?

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Commissioner Davide's proposal to delete the proposed Section 4, if it is carried out, means that all those cities whose charters prohibit the voters from voting for provincial elective officials and charters that allow their city voters to vote for provincial elective officials will remain as they are. Is this correct?

MR. DAVIDE: They will continue to do so until a new Local Government Code shall have been enacted or until Congress shall have repealed these particular charters.

MR. BENGZON: Thank you.

MR. NOLLEDO: The Committee regrets that it cannot accept the amendment. We prefer that it be submitted to the floor.

VOTING

THE PRESIDENT: We are now ready to vote on the proposed amendment of Commissioner Davide.

As many as are in favor of the proposed amendment of Commissioner Davide that the proposed Section 4 now be deleted, please raise their hand. (Few Members raised their hand.)

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

The results show 7 votes in favor and 12 against; the amendment is lost.

MR. MAAMBONG: Madam President, I will now propose the amendment, as reformulated, but as I mentioned earlier, with the indulgence of my coproponent, Commissioner Bengzon, I will not include his proposed amendment. However, Commissioner Bengzon is always free to present his own primary amendment later on.

My amendment reads: "Sec. 4. Highly urbanized cities, as determined by LAW, shall be independent of the province. However, the voters of COMPONENT CITIES within A province shall not be deprived of their right to vote for elective provincial officials." We deleted the clause "unless their respective charters provide otherwise" in the first paragraph. The second paragraph is also entirely deleted. I would like to know from the Committee if this formulation is acceptable.

MR. NOLLEDO: Madam President, we regret that we cannot accept the amendment.

MR. MAAMBONG: Then I ask that it be put to a vote, Madam President.

THE PRESIDENT: What happened to the proposed amendment of Commissioner Bernas? Has it been incorporated?

MR. MAAMBONG: It has already been incorporated, Madam President.

FR. BERNAS: Madam President, may I just say something?

In effect, the amendment means that there will only be two kinds of cities — highly urbanized cities and component cities. Highly urbanized cities are independent of the provinces. Component cities are precisely component portions of the province and entitled to vote within the province and may not be deprived of the right to vote. The effect of this on existing charters which deprive citizens of the right to vote would be the amendment of the said charters, if those cities are not highly urbanized.

THE PRESIDENT: In other words, the rule is that the inhabitants of the component city can vote for the provincial officials.

FR. BERNAS: Yes, Madam President.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Perhaps we should vote first on my amendment to the amendment, because once this amendment is approved, then I will be foreclosed from presenting another amendment.

THE PRESIDENT: Has the Commissioner's amendment not been incorporated in the amendment of Commissioner Maambong?

MR. BENGZON: No, Madam President, because my amendment would include cities whose charters prohibit their voters from voting for provincial elective officials. As Commissioner Bernas said, if this amendment of Commissioner Maambong is approved, then my amendment is foreclosed. So, I would like to propose this amendment to Commissioner Maambong's amendment so that this can be voted upon. If my amendment wins, then it will be included.

MR. NOLLEDO: Madam President, the Committee agrees with Commissioner Bengzon.

MR. MAAMBONG: Madam President, I was about to say that the voting of my proposed amendment will not foreclose Commissioner Bengzon from presenting one sentence or two so that the proposed amendment will be included, but the Committee has already made a stand on this point and I am not about to question the Committee.

Thank you, Madam President.

MR. BENGZON: Madam President, the amendment to the amendment will be inserted after the word "cities," so that it will read: Highly urbanized cities, AS WELL AS THOSE CITIES WHOSE CHARTERS PROHIBIT ITS VOTERS FROM VOTING FOR PROVINCIAL ELECTIVE OFFICIALS, shall be independent of the province."

THE PRESIDENT: How about the right to vote?

MR. BENGZON: "However, the voters of COMPONENT CITIES within A province shall not be deprived of their right to vote for elective provincial officials."

THE PRESIDENT: Is this accepted by Commissioner Maambong?

MR. MAAMBONG: Madam President, it is all right with me, but I was thinking that the phrase which Commissioner Bengzon proposes to insert should be after the word "LAW" in the third sentence, so it will read: "Highly urbanized cities as determined by LAW, AS WELL AS THOSE CITIES WHOSE CHARTERS PROHIBIT ITS VOTERS FROM VOTING FOR PROVINCIAL ELECTIVE OFFICIALS, shall be independent of the province."

MR. BENGZON: I accept.

MR. MAAMBONG: I accept the amendment, Madam President.

THE PRESIDENT: Is the amendment accepted by the Committee?

MR. NOLLEDO: Madam President, the Committee regrets that it cannot accept the amendment, because this will prohibit Congress from amending the charter when exigencies so demand.

THE PRESIDENT: Is there any other comment?

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I offer a different interpretation? This amendment does not fossilize the charters. For as long as the charters are just charters, they are amendable. The moment, therefore, that the voters are given the right to vote in a province, then their cities become component cities. Their cities become component cities or these could graduate into becoming highly urbanized cities. They have two options — Congress can either make their cities highly urbanized cities or component cities.

MR. BENGZON: That is right, Madam President. We do not fossilize the charter. May we now ask for a vote?

MR. RODRIGO: Before voting, may I have one question?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: How about the present highly urbanized cities? Let us say that Congress decides to change the definition of highly urbanized cities, may Congress enact a law to the effect that an existing urbanized city no longer is considered an urbanized city?

MR. BENGZON: Yes.

MR. RODRIGO: But there is a constitutional provision that urbanized cities can no longer be deurbanized by Congress.

FR. BERNAS: Madam President, I think the amendment removed the word "existing."

MR. RODRIGO: Was the word "existing" removed?

MR. BENGZON: Yes, that was removed.

FR. BERNAS: It just says "Highly urbanized cities as determined by LAW." Therefore, a city which is presently considered highly urbanized can still be demoted if the standards of law change.

MR. RODRIGO: Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I seek one simple clarification. What about cities whose original charters allowed the voters therein to vote for provincial elective officials, but later on became highly urbanized and, therefore, their voters were no longer allowed to vote for the provincial officials? Which will prevail insofar as the cities are concerned — their original charters or their having been declared highly urbanized under the Local Government Code?

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: As I mentioned earlier, charters can be amended by law. In the case of cities whose charter allowed their voters to vote for provincial elective officials, there were some charters which were amended by law or by decree. And because of the criteria under the Local Government Code, many of those cities which qualified filed their petitions to convert themselves into highly urbanized cities and were declared highly urbanized cities. So, in answer to Commissioner Davide, I would like to venture an opinion that these cities whose original charters allowed the voters to vote but had been converted into highly urbanized cities under the provisions of the Local Government Code or some other presidential decree, and because they complied with the criteria are now considered highly urbanized cities.

Madam President, that is precisely why in our original formulation of our amendments, we placed the word

"existing" but we were convinced by the Committee that we do not have to use the word "existing" so that Congress will be given the leeway to determine whether these highly urbanized cities declared as such are really qualified.

MR. DAVIDE: Another question. A component city became highly urbanized after the ratification of this Constitution — with this provision now. But under the charter of that component city, as of the date of the effectivity of the new Constitution, its voters can vote for the provincial elective officials. Would it mean that subsequently, because of its having satisfied the requirements for a highly urbanized city, despite its charter, the voters therein can no longer subsequently vote for the provincial elective officials?

MR. BENGZON: That is correct; provided that they have complied with the procedural requirements of the law — they applied; they are processed and are found to be truly highly urbanized. That means they have graduated to that level.

MR. DAVIDE: Would it therefore be the position of the Gentleman that a charter can be amended by merely qualifying to a higher category of a city? In short, it is an implied amendment to an original charter. It will not require any amendatory act.

MR. BENGZON: There is, in effect, a legislative act because there is already a law that is passed.

MR. DAVIDE: Yes. But we know for a fact that a law or a charter can only be repealed, amended or modified by another law. In this particular case, it is the mere graduation that the Gentleman is talking about that would now repeal or amend the provision.

MR. BENGZON: But once it qualifies and it proves to have been qualified, then there is no bar from its being declared to be a highly urbanized city.

MR. DAVIDE: Thank you for the clarification.

MR. AZCUNA: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: May I ask Commissioner Maambong a few questions?

MR. MAAMBONG: Yes.

MR. AZCUNA: Under the amendment of Commissioner Maambong, there are, in effect, two kinds of cities — independent cities and component cities. The independent cities are the highly urbanized cities as determined by law and the cities whose charters do not allow their residents to vote for provincial elective officials. They are independent.

MR. MAAMBONG: Yes.

MR. AZCUNA: The other kind of cities is the so-called component cities because they are parts of the provinces and they can elect the provincial elective officials.

MR. MAAMBONG: Yes.

MR. AZCUNA: In the highly urbanized cities as determined by law, if the Commissioner's amendment is passed, Congress will have no power to allow them to vote for provincial elective officials. A law allowing a highly urbanized city to vote for provincial elective officials would be unconstitutional.

MR. MAAMBONG: That is correct.

THE PRESIDENT: Will Commissioner Maambong please read the particular paragraph that we will vote on, just to be clear on this.

MR. MAAMBONG: Sec. 4. "Highly urbanized cities as determined by LAW, AS WELL AS THOSE CITIES WHOSE CHARTERS PROHIBIT ITS VOTERS FROM VOTING FOR PROVINCIAL ELECTIVE OFFICIALS, shall be independent of the province. However, the voters of COMPONENT CITIES within A province shall not be deprived of their right to vote for elective provincial officials."

VOTING

THE PRESIDENT: As many as are in favor of this particular amendment proposed by Commissioner Maambong, please raise their hand. (Several Members raised their hand.)

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

The results show 16 votes in favor and 10 against; the amendment is approved.

MR. NOLLEDO: That will be Section 4, Madam President.

THE PRESIDENT: Yes.

MR. NOLLEDO: Section 5 was already approved and then Section 6 is the Davide amendment. Section 7, which reads as follows, will be under consideration now: "The President of the Philippines shall exercise general supervision over local governments to insure that laws are faithfully executed."

Madam President, before we proceed to Section 7, the Committee would like to request the Floor Leader to make a motion that Sections 4, 5 and 6 be considered approved and closed to amendments.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: May I remind the Commission that when we approved the amendment pertaining to metropolitan areas, the understanding then was that this would be relocated to a section immediately preceding Section 6.

MR. NOLLEDO: The original Section 6 is now Section 9.

MR. OPLE: Is that now Section 9?

MR. NOLLEDO: Yes, that is why the Committee has followed the instruction of the Commission — that we should relocate it immediately preceding Section 9, formerly Section 6. There is no violation in that section.

MR. OPLE: Madam President, in that case, I agree with the specific place in which that has been located.

MR. NOLLEDO: Before we go to Section 7, we would like the Floor Leader to please file a motion that the Padilla amendment on Section 4 be closed to amendment.

THE PRESIDENT: Section 4 has been just approved.

MR. NOLLEDO: Yes; we now go to Section 5 and put this to a vote.

THE PRESIDENT: Will Commissioner Nolleddo please read Section 5?

MR. NOLLEDO: Sec. 5. "Legislative bodies of local governments shall have sectoral representation as may be prescribed by law."

VOTING

THE PRESIDENT: As many as are in favor of Section 5, as worded by the Committee, 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 24 votes in favor and none against; the amendment is approved.

Will Commissioner Nolledo please read what is Section 6 now.

MR. NOLLEDO: Madam President, Section 6 is the Davide amendment which was approved in the last session. It reads: "THE TERM OF OFFICE OF ELECTIVE LOCAL OFFICIALS EXCEPT BARANGAY OFFICIALS WHICH SHALL BE DETERMINED BY LAW, SHALL BE THREE YEARS AND NO SUCH OFFICIAL SHALL SERVE FOR MORE THAN THREE CONSECUTIVE TERMS. VOLUNTARY RENUNCIATION OF THE OFFICE FOR ANY LENGTH OF TIME SHALL NOT BE CONSIDERED AS AN INTERRUPTION IN THE CONTINUITY OF HIS SERVICE FOR THE FULL TERM FOR WHICH HE WAS ELECTED."

THE PRESIDENT: As many as are in favor of this particular Section 6 as read by the Chairman, 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 24 votes in favor and none against; the amendment is approved.

MR. NOLLEDO: Madam President, we shall read Section 7, formerly Section 5, and which will be subject to amendment if there is any:

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

THE PRESIDENT: Is there any objection?

MR. BENGZON: A point of clarification, Madam President.

THE PRESIDENT: Please proceed.

MR. BENGZON: Considering that we have granted autonomous governments the freedom to pass their own laws, is my understanding correct that the President will insure that the national laws are faithfully executed in the local government units?

MR. NOLLEDO: Yes, that is a settled rule; it applies to national laws. But the President is not prohibited, in my personal opinion and without binding the Committee, from seeing to it that laws passed by the regional legislative assemblies should also be complied with, because they have also the force of law based on these constitutional provisions.

MR. BENGZON: Can we have the official interpretation or sense of the Committee so that that would be very clear on record?

MR. NOLLEDO: That is my personal opinion.

MR. OPLE: I think the Chairman speaks for the Committee in this case, Madam President.

MR. BENGZON: Thank you.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I have a few questions for the Committee. In the spirit of local autonomy, would it not be better if we were to retain the hierarchy of supervisory powers which were found in the 1973 Constitution — the municipality supervises the barrio; the province supervises the towns and component cities; and then the President supervises the provinces and highly urbanized cities and independent cities. That would seem to be more in keeping with our desire for decentralization. I am referring to the text of Article XI, Section 4 (1) of the 1973 Constitution which says that:

Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barrios, shall ensure that the acts of their component units are within the scope of their assigned powers and functions . . .

In other words, there is a hierarchical gradation as far as supervisory authority is concerned. The President need not directly bother himself or herself with the lower political units, but rather the President must attend to supervising the highest political units below the national government.

MR. NOLLEDO: Madam President, I find no inconsistency between my previous statement and the theory of Commissioner Bernas which, besides Section 7 here, talks of local governments. And so the term "local governments" should cover all local governments from the barangay up to the provincial level and even up to the highest position in the autonomous region. However, the hierarchical way of supervision can still be observed by the President.

FR. BERNAS: Is it the intention of the Committee that although only the President is mentioned, what is intended is a hierarchical system of supervision?

MR. NOLLEDO: Yes, Madam President.

FR. BERNAS: On that understanding, I would perhaps suggest that we drop the phrase "to insure that laws are faithfully executed" because that is what general supervision means anyway.

MR. NOLLEDO: Yes.

FR. BERNAS: Would Commissioner Nollado be amenable to just dropping that last phrase and putting a period (.) after "government"?

MR. NOLLEDO: The Committee accepts the amendment, Madam President.

FR. BERNAS: Thank you.

MR. AZCUNA: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: May I just point out that under the 1935 Constitution, the President shall have general supervision over all local governments as may be provided by law, and shall take care that the laws be faithfully executed. There seems to be two powers, two separate concepts given to the President vis-a-vis local government based on the 1935 Constitution: a power of general supervision, and a power to take care that the laws are faithfully executed. In the Committee draft, these were combined to state that the President shall have general supervision over all local governments to insure that laws are faithfully executed, and the amendment of Commissioner Bernas, as accepted by the Committee, has now dropped that second part. So, we will only have the power of general supervision over local governments.

MR. OPLE: Yes, I think the functions in the 1935 Constitution are subsumed in the general phrase "general supervision."

FR. BERNAS: Madam President, may I also observe that in that sentence read by Commissioner Azcuna with respect to local governments under the 1935 Constitution, two powers are really mentioned there; the power of general supervision of the President and, in effect, the power of control of the legislature over the local government. That is why in the 1935 Constitution the power of the President over local government is "as may be provided by law" because the power and control over local governments was completely in the hands of the legislature.

However, with decentralization and local autonomy now, that complete control of the legislature over local governments is broken.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: May I raise a point of clarification in connection with the question of Commissioner Bengzon regarding the autonomous regions in relation to the power of general supervision of the President over local governments.

I notice that in the creation of the present regional governments in Regions IX and XII, Section 35 of Presidential Decree No. 1618 provides that "The President shall have the power of general supervision and control over the autonomous regions." My question is: Under the present thinking of the Committee, this power of the President will be limited only to general supervision, and this power of control is already taken out, am I correct?

MR. NOLLEDO: Yes, that is correct.

MR. MAAMBONG: I would also like to put on record Section 3 of Presidential Decree No. 1618 again in relation to the regional governments, and it reads:

Within the framework of the national sovereignty and territorial integrity of the Republic of the Philippines and its Constitution, internal autonomy shall be established in the autonomous regions with legislative and executive machinery to exercise the powers and responsibilities herein specified in accordance with the provisions of the Constitution and the laws of the Republic of the Philippines.

My question is: Would this Section 3 still be in keeping with the thinking of the Committee in the formulation of the autonomous regions?

MR. NOLLEDO: We are granting only general supervision with respect to autonomous regions.

MR. MAAMBONG: Yes, but the reference to the provisions of the Constitution and the laws of the Republic of the Philippines would still be equally valid.

MR. NOLLEDO: That seems to create some confusion. So, we are not bound by the provisions that the Gentleman has cited.

MR. MAAMBONG: Madam President, my thinking with regard to autonomous regions is that the Constitution of the Philippines and the laws of the Republic of the Philippines are still applicable to autonomous regions because with respect to legislation as pointed out under Presidential Decree 1618, national laws shall be supreme vis-a-vis regional laws enacted by the Sangguniang Pampook. In other words, in the hierarchy of laws, the Constitution and the laws passed by the Republic of the Philippines are still above everything else.

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

MR. MAAMBONG: The Constitution of the Republic of the Philippines, the present Constitution we are drafting; but in the case of the regional government, the Constitution of 1973, because this has reference to the previous Constitution. But I was thinking of the autonomous regions which will still have to follow the Constitution of the Republic of the Philippines we are now drafting.

MR. NOLLEDO: Yes, I agree with you.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to call attention to the fact that in the Article on the Executive which we already passed on Second Reading and copies of which have already been distributed for Third Reading, we have a provision exactly the same as this. Section 17 of the Article on the Executive reads:

The President shall have control of all the executive departments, bureaus and offices. He shall exercise general supervision over all local governments as may be provided by law and shall take care that the laws be faithfully executed.

So, there is a duplication. As Chairman of the Committee on Style, I would like to know if we have to delete.

MR. OPLE: We must admit a bias in favor of keeping this provision in the Article on Local Governments.

MR. RODRIGO: In the 1935 Constitution, this power of the President was also in the Article on the Executive Department.

MR. NOLLEDO: In that case, Madam President, after our attention has been called by Commissioner Rodrigo, I think the best way is to align this provision with what has been approved on Third Reading.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: It is my submission that in the spirit of recognizing autonomous regions which is a breakthrough — it is a new provision in this new draft Constitution — the provision should be retained. It will better allow for a more thorough consideration of the concept of autonomous regions in the context of the general supervisory powers of the President.

MR. RODRIGO: Section 17, under the Article on the Executive, makes a distinction between the authority of the President over departments, bureaus and offices and his power over local governments. Let me read it again. "Section 17. The President shall have control of all the executive departments, bureaus and offices." Then it makes a distinction: "He shall exercise general supervision over all local governments . . ."

Commissioner Guingona is here and this is more his line because he is the Chairman of the Committee on Sponsorship.

THE PRESIDENT: Commissioner Rodrigo, there is no word "control" in that last sentence over local governments.

MR. RODRIGO: There is none, precisely.

THE PRESIDENT: It just says "supervision."

MR. RODRIGO: Madam President, if we transfer this to the Local Governments, Section 17 will only read: "The President shall have control of all executive departments, bureaus and offices." We remove the next sentence and transfer it to the Article on Local Governments.

MR. OPLE: Yes.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I vaguely recall, and perhaps, we can check this in the record, when we were discussing that particular provision on the Executive Department, somewhere along the line someone adverted to the fact that this may have to be modified depending on what we decide on local autonomy. So, if there is a necessity for a reformulation of the Article on the Executive, the Article on the Executive must yield to the general spirit of what we might have on the Article on Local Governments.

MR. NOLLEDO: Madam President, I remember it was Commissioner Quesada who raised the question. That was the agreement we had to finally decide in the Committee on Local Government.

MR. RODRIGO: That is a matter for the Committee on Sponsorship which has the function of seeing to it that there is no duplication or overlapping of articles.

FR. BERNAS: Madam President, it is not just a question of overlapping, but it is a question of real contradiction. It is not so much a conflict between the power of the President and the power of local governments as between the power of local governments and the power of Congress because the President will have general supervision as may be provided by law. The implication is that Congress has blanket authority to provide any law with respect to local governments as it had under the 1935 Constitution, and that is not our intention anymore. That is why in my earlier remarks I said that under the 1935 Constitution, the President had general supervision over local governments and Congress had control.

THE PRESIDENT: The Chair believes that whatever is provided for in that Article on the Executive should be adjusted to what will be approved here with respect to local governments.

MR. NOLLEDO: Yes, that is correct.

THE PRESIDENT: In other words, this should govern the matter whatever is decided on the Article on Local Governments. So, what is important is for us to decide about the extent of the power of the President over local governments.

MR. RODRIGO: The only difference is that in the Article on the Executive, there is the phrase, "as may be provided by law." It states that the President shall exercise general supervision over all local governments as may be provided by law and shall take care that the laws be faithfully executed, whereas in this section we are dealing with now, under the Article on Local Governments, Section 7 reads:

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

MS. AQUINO: That was deleted.

THE PRESIDENT: The proposed amendment is to eliminate that last clause and put a period (.) after "Local Governments."

MS. AQUINO: I was supportive of the motion to delete, and now I move for the retention of this section in this

Article, if it is the clear intention of the Committee that in this provision, the contemplation is just to recognize the mere power of oversight over an inferior body and does not exclude a restraining authority over the supervised body. Do I understand the Committee correctly?

MR. NOLLEDO: Yes.

MS. AQUINO: In which case, it also excludes the power of the President to suspend or remove public officials.

MR. NOLLEDO: Yes.

MS. AQUINO: Or proceed with administrative complaints against them.

MR. NOLLEDO: Yes.

MS. AQUINO: In the context, therefore, of the concept of the supervisory powers as they are generally contemplated, this section should be retained in this Article, Madam President.

MR. OPLE: May I point out, however, so that no lacuna of interpretation will arise that the President's power of control over the Ministry of Local Governments will continue. With respect to disciplinary measures against members of local governments, therefore, I think the power of the Ministry of Local Governments, which is under the control of the President of the Philippines, will not be eliminated by this change in the relationship between the President and the local governments, which means the power of general supervision over local governments.

MS. AQUINO: Madam President, I find that to be a dangerous interpretation because as a settled usage in jurisprudence would go, the power to initiate administrative complaints against local officials rightfully belongs to the provincial boards. If it is the spirit of recognize autonomy and to decentralize national government, then we should not fall into that kind of interpretation.

MR. OPLE: Madam President, I think local autonomy contemplates allowing all the channels to function. But it is also correct that as one moves up the channels of the hierarchy of government, appeals are generally addressed to the Office of the President of the Philippines, and very rarely will any case get to the table of the President unless on appeal. In the administrative setup of any government, there is presumed to be a final appeal to the head of the government.

MS. AQUINO: In that case, it holds that the general rule is that the power of suspension and removal still rightfully belongs to the local governments, and matters of appeal which may be in the nature of a general supervisory power may pertain to the Office of the President, if only to clarify the interpretation.

MR. NOLLEDO: Madam President, I agree with the interpretation of Commissioner Aquino but those things can be provided for in the Local Government Code.

MR. OPLE: In general, however, I think the Committee shares this interpretation, Madam President.

MS. AQUINO: Thank you.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I move for a modification of the amendment of Commissioner Bernas. Instead of deleting the last clause "and ensure that laws are faithfully executed," I move that this particular phrase be transferred to the Article on the Executive because this is an essential function or power of the President. So, as would now be worded, that particular Section 17 of the Article on the Executive would be without this last clause, although this is essential.

MR. NOLLEDO: May I ask Commissioner Davide a question, Madam President? Is he referring to execution of laws in general, without particularly mentioning local government?

MR. DAVIDE: Yes, that is the general law.

MR. NOLLEDO: At any rate, in the oath of the President, the President can execute all laws of the land.

MR. DAVIDE: That is correct. That is why it should not be deleted but merely transferred to Section 17 of the Proposed Article on the Executive.

THE PRESIDENT: No, but it should be removed from Section 7.

MR. DAVIDE: It should be removed from here.

THE PRESIDENT: It should be removed with the understanding that it will be a separate sentence.

MR. NOLLEDO: It can be done.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: I was going to support the view of Commissioner Davide that it is not only the President's right but prerogative or duty under the Constitution to see to it that laws are faithfully executed. This refers not only to national laws but also to local laws.

I do not perceive any violation of the concept of decentralization that we have accepted here, if we give to the President the power to see to it that laws are faithfully executed. The implication of the failure to give the President that power would be the danger of creating an imperium in imperio where we could have a local official who refuses to implement or execute the laws faithfully and the President unable to do anything about it.

So, I would not favor the dropping of the phrase but I would favor its inclusion, as suggested by Commissioner Davide, in the Article on the Executive.

Thank you.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Commissioner Azcuna invited our attention to the 1935 or 1973 Constitution that there were two powers: one, general supervision; and two, to see to it that laws are faithfully executed. On the second sentence of this provision under Section 17 of the Article on the Executive, we may omit the phrase "as may be provided by law," but I would prefer the text "and shall take care that all laws be faithfully executed" instead of "to ensure" which is the text in the draft of the Committee, because it seems that there are really two powers not necessarily inclusive or exclusive of each other. So that this proposed Section 7 should read: "The President of the Philippines shall exercise general supervision over local governments AND SHALL TAKE CARE that THE laws be faithfully executed." That simplifies the matter, I believe. So, Section 17 of the Article on the Executive will just state as its first sentence: "The President shall have control of all the executive departments, bureaus and offices." The next sentence should be transposed to be Section 7 of the Article on Local Governments with the elimination of the phrase "as may be provided by law." Does the Committee look upon this suggestion with favor?

MR. NOLLEDO: We sympathize with the provision but we already agreed with the Bernas amendment. The Committee believes that the Bernas amendment is good enough — without prejudice to the amendment suggested

by Commissioner Davide — because I think the intention even of the 1935 Constitution is really to separate the second function. They were put in only in one sentence. The second function is implementing the presidential oath, that the President shall execute all the laws of the land. So, I think the Davide suggestion is well-taken.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I would have no objection to the Davide amendment, and also to incorporating the recommendation of Commissioner Padilla to put that in the Article on the Executive. But if we do that, I would suggest that we put in Section 7 of the Article on Local Governments the specification of the authority of local governments over interior local governments, the hierarchy. I would suggest that if we take this out and put it in the Article on the Executive, then we put in its place the old section from Section 4 (1), Article XI of the 1973 Constitution which states:

Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barrios, shall ensure that the acts of their component units are within the scope of their assigned powers and functions.

It just clarifies things and establishes this clear hierarchy.

MR. NOLLEDO: Is the Gentleman presenting that as an amendment?

FR. BERNAS: Yes.

MR. NOLLEDO: The Committee accepts the amendment.

THE PRESIDENT: In other words, the whole of Section 4, Article XI of the 1973 Constitution?

FR. BERNAS: No, only the first sentence of Section 4 (1) because the second sentence is already taken care of somewhere else, I think.

THE PRESIDENT: That is right. This will be in lieu of Section 7, as worded now?

FR. BERNAS: We move Section 7 to the Article on the Executive. Then in lieu of the present Section 7, we put the first sentence of Section 4 (1) of the 1973 Constitution.

MR. AZCUNA: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: May I just inquire as to the wording of the provision in the Article on the Executive? Would it be worded as Section 7 as worded in the Article on Local Governments or as originally worded minus "as determined by law" under Section 17 of the Article on the Executive? So, it will read: "The President shall have control of all the ministries and general supervision over local governments and shall take care that laws are faithfully executed." That will be the wording of Section 17.

FR. BERNAS: I have no serious conceptual difficulty with that except that for me, it is tautological.

MR. AZCUNA: I feel that the general supervision power should be separated from the power to take care that the laws are faithfully executed rather than merging the two. As worded in Section 17 of the Article on the Executive, it is separated. We just delete the words "as determined by law" to remove control by the legislature over local governments.

MR. MAAMBONG: Madam President, in line with this, I thought the suggested formulation of Section 17 — and I

do not know if this tallies with the thinking of Commissioner Azcuna — would be: "The President shall have control of all the executive departments, bureaus, and offices and shall take care that laws be faithfully executed." I understand that this exercise of general supervision over all local governments is supposed to be transposed to the Article on Local Governments or is it the reverse?

Thank you.

THE PRESIDENT: Is the Committee ready to give any reaction? The proposal is to transfer Section 7 to the Article on the Executive, and in lieu thereof, to have this first sentence of Section 4 (1), Article XI of the 1973 Constitution in the Article on Local Governments. Is that acceptable to the Committee?

MR. NOLLEDO: We leave it to the body to decide, Madam President, because as far as we are concerned, we agree with Commissioner Aquino that there should be a provision on supervisory powers of the President in the Article on Local Governments.

MR. MAAMBONG: Madam President, may I just inquire from Commissioner Bernas because he is transposing Section 4 (1) of Article XI. Is it understood that the whole of this paragraph should be transposed?

FR. BERNAS: Only the first sentence.

MR. MAAMBONG: Not the provision on highly urbanized cities.

MR. NOLLEDO: The Bernas amendment is that Section 7 should read as follows — please correct me if I am wrong: "THE PRESIDENT OF THE PHILIPPINES SHALL EXERCISE GENERAL SUPERVISION OVER LOCAL GOVERNMENTS. PROVINCES WITH RESPECT TO COMPONENT CITIES AND MUNICIPALITIES, AND CITIES AND MUNICIPALITIES WITH RESPECT TO COMPONENT BARANGAYS SHALL ENSURE THAT THE ACTS OF THEIR COMPONENT UNITS ARE WITHIN THE SCOPE OF THEIR ASSIGNED POWERS AND FUNCTIONS." Am I correct?

FR. BERNAS: It embodies everything in my amendment but as to where the first sentence will be placed, I am leaving that to the Committee. One suggestion is that the first sentence should go to Section 17 of the Article on the Executive. I am willing to go along on that. But if the Committee prefers to keep it here, that is really not my responsibility.

MR. NOLLEDO: As far as the Committee is concerned, what I have read should really appear on Section 7 in line with the observations of Commissioner Aquino.

THE PRESIDENT: I beg the Gentleman's pardon?

MR. NOLLEDO: Based on what I have read, we would like to retain here as Section 7 the provision on the supervisory powers of the President, as amended by Commissioner Bernas, including Section 4 (1) of the 1973 Constitution on the hierarchical supervision of provinces and municipalities.

THE PRESIDENT: How is this to be adjusted to the provision over local governments in the Article on the Executive?

MR. NOLLEDO: I remember, Madam President, that there was a motion filed by Commissioner Quesada that the provisions of the Article on the Executive should yield to what we should agree upon here with respect to the report of the Committee on Local Governments. We are now deciding what should be agreed upon by us with respect to the power of general supervision of the President over local governments.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Perhaps, it would be best for us to refer to the record rather than to our memory whether such a consensus was reached by this body. The best source of information would be the record, and I would submit that until we have verified from the record, we should not act on this matter.

THE PRESIDENT: But the Chair believes that the body can now decide where the provision will be best and appropriate: should it be in the Article on Local Governments or should it be in the Article on the Executive? I think we can decide on it now.

MR. GUINGONA: I thought we were relying on whether there was that consensus. In view of the statement of the Chair, I respectfully submit.

MR. NOLLEDO: Madam President, I think it is important that the Committee call the attention of the Members of the Constitutional Commission that there is also a similar provision on autonomous regions in Section 3, lines 29 to 31, page 3 of Resolution No. 470, the consolidated report of the Committee on Local Governments, which reads:

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

I would like that our decision should also take into account another similar provision appearing with respect to autonomous regions.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, if the Bernas amendment as modified by the Committee would be voted upon, I would make a reservation to introduce at the proper time the clause "to ensure that laws are faithfully executed" in the Article on the Executive more particularly to Section 17 thereof.

THE PRESIDENT: So, the Chair believes that what is before the Body now is the proposed amendment of Commissioner Bernas which has not been withdrawn. I believe that is in Section 7: "The President of the Philippines shall exercise general supervision over LOCAL GOVERNMENTS."

MR. NOLLEDO: Then I will continue, Madam President: "PROVINCES WITH RESPECT TO COMPONENT CITIES AND MUNICIPALITIES, AND CITIES AND MUNICIPALITIES WITH RESPECT TO COMPONENT BARANGAYS SHALL ENSURE THAT THE ACTS OF THEIR COMPONENT UNITS ARE WITHIN THE SCOPE OF THEIR ASSIGNED POWERS AND FUNCTIONS."

MR. MAAMBONG: Madam President.

THE PRESIDENT: Is that acceptable to Commissioner Bernas?

FR. BERNAS: Yes, Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I would like to call the attention of the Committee that the second sentence just read was actually lumped together with Section 4 (2) of the 1973 Constitution, which starts with: "Local government units may group themselves . . ." If we include that as a second sentence of Section 7, it has absolutely no relation at all

to the power of general supervision of the President over local governments, whereas the original formulation in the 1973 Constitution referred to states:

SECTION 4 (1) Provinces with respect to component cities and municipalities . . .

(2) Local government units may group themselves, or consolidate or coordinate their efforts, services . . .

I am thinking that if we have to add that provision at all, we should add it to the next section in order that it has relation to each other, because that provision, if it will be included in the power of the President of general supervision, will have no relation at all to the first sentence.

THE PRESIDENT: In other words, not as part of Section 7.

MR. NOLLEDO: I beg to disagree, Madam President. I think the relation is almost direct. It concerns the hierarchical way of supervision by higher local governments over inferior local governments. So, I think Commissioner Bernas was correct.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I might also add that the following section talks about groupings which are not juridical persons. They are just various juridical entities cooperating, but not forming a new juridical entity.

MR. OPLE: Madam President, may I just remind the Commission that, according to the previous agreement, the provision on metropolitan areas will immediately precede what is now Section 6, which pertains to the voluntary grouping of municipalities or cities. So, I think this interconnection between Section 6 and what is now considered to be Section 5, namely, the Bernas amendment, is not actually well-founded because there would be the section on metropolitan areas to follow immediately preceding what is now Section 6 on the grouping of local governments.

MR. NOLLEDO: We are now in Section 7. The Ople amendment will be Section 8, and Section 9 refers to consolidation or coordination of efforts and services.

MR. OPLE: Yes.

MR. NOLLEDO: So, Madam President, the Committee believes that the Bernas amendment should be submitted to the floor for voting.

THE PRESIDENT: Will the Gentleman restate the amendment.

MR. NOLLEDO: The amendment is as follows: "THE PRESIDENT OF THE PHILIPPINES SHALL EXERCISE GENERAL SUPERVISION OVER LOCAL GOVERNMENTS. PROVINCES WITH RESPECT TO COMPONENT CITIES AND MUNICIPALITIES, AND CITIES AND MUNICIPALITIES WITH RESPECT TO COMPONENT BARANGAYS SHALL ENSURE THAT THE ACTS OF THEIR COMPONENT UNITS ARE WITHIN THE SCOPE OF THEIR ASSIGNED POWERS AND FUNCTIONS."

VOTING

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

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

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

The results show 25 votes in favor, one against and no abstention; the amendment is approved.

So, that is the new Section 7. May we proceed now to Section 8?

MR. NOLLEDO: Section 8 is the Ople amendment, and Commissioner Ople will be happy if I read again his well-deserved amendment. It states: "THE CONGRESS MAY BY LAW CREATE SPECIAL METROPOLITAN POLITICAL SUBDIVISIONS, SUBJECT TO A PLEBISCITE AS SET FORTH IN SECTION 11 HEREOF. THE COMPONENT CITIES AND MUNICIPALITIES SHALL RETAIN THEIR BASIC AUTONOMY AND SHALL BE ENTITLED TO THEIR OWN LOCAL EXECUTIVE AND LEGISLATIVE ASSEMBLIES. THE JURISDICTION OF THE METROPOLITAN AUTHORITY THAT WILL THEREBY BE CREATED SHALL BE LIMITED TO BASIC SERVICES REQUIRING COORDINATION."

That is Section 8, the Ople amendment.

MR. OPLE: Madam President, since this has already been voted upon . . .

THE PRESIDENT: Yes, it was voted upon already.

MR. OPLE: I think the Chair may want to submit for approval the specific location of that amendment, unless this is considered merely a renumbering matter.

THE PRESIDENT: It was approved before. The only matter to be determined is the particular numbering of the section. But we may just as well submit it again to a vote today.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. NOLLEDO: Section 9, Madam President, which was formerly Section 6, reads:

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

This is a reproduction of the identical provision in the 1973 Constitution, Section 9.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I move to amend this section by adding after the word "them" the words IN ACCORDANCE WITH LAW AND WITH THE APPROVAL OF THE MAJORITY OF THE PEOPLE IN A PLEBISCITE CALLED FOR THAT PURPOSE which is in accordance with the old Section 11 now being renumbered as Section 14.

THE PRESIDENT: Will the Commissioner please restate her amendment.

MS. AQUINO: After the word "them," include the phrase IN ACCORDANCE WITH LAW AND SUBJECT TO APPROVAL BY A MAJORITY OF THE VOTES CAST IN A PLEBISCITE, IN THE POLITICAL UNIT OR UNITS DIRECTLY AFFECTED.

MR. NOLLEDO: So, the provision will read as follows: "Local government units may group themselves, consolidate or coordinate their efforts, services and resources for purposes commonly beneficial to them IN ACCORDANCE WITH LAW AND WITH THE APPROVAL OF THE MAJORITY OF THE VOTERS IN THE POLITICAL UNITS AFFECTED."

MS. AQUINO: "MAJORITY OF THE VOTES CAST IN A PLEBISCITE, IN THE POLITICAL UNIT OR UNITS DIRECTLY AFFECTED."

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Will the proponent yield to a question or two?

MS. AQUINO: Yes, gladly.

MR. MAAMBONG: Why should this grouping together of local government units be submitted to a plebiscite when we are not forming a new political unit? From my reading of the Local Government Code, when you create or abolish a barrio, a municipality, a city or a province that is the time for a plebiscite to be undertaken so that the people will be made to vote. But here it is only the grouping of efforts, services and resources. We are not forming a new political unit. So, why involve the people in a plebiscite?

MS. AQUINO: I have no quarrel with Commissioner Maambong on that. In fact, it is clear that there is no intention to vest juristic personality in whatever amalgam will come out of this consolidation. It is just that it assumes likewise a quasi-juridical personality inherent in a municipal corporation. A municipal corporation has two powers essentially: one as a public corporation which partakes of the nature of any entity with governmental power. By that we mean the power to enforce laws, the power of eminent domain, police power and the power of taxation. However, it likewise assumes the powers pertaining to a private corporation; essentially, the personality to sue, the personality to be sued and the personality to acquire properties whenever allowed by law. To a certain extent, therefore, a consolidation — whether this is a juristic or a quasi-juridical personality — vests in that amalgam or consolidated body certain powers of a juridical personality. In other words, we can appreciate it as not assuming a juridical personality but assuming the powers pertaining thereto.

MR. MAAMBONG: Is the Commissioner saying that by this form of grouping, we are actually creating what is known under our law on municipal corporation or public corporation a public quasi-corporation, as distinguished from a quasi-public corporation? In a public quasi-corporation, it is actually a public corporation but it performs not governmental functions but private functions usually directed towards rendering of services. Are we, therefore, creating by this provision, or do we hope to create by this provision a public quasi-corporation?

MS. AQUINO: Yes, Madam President, in the nature of that which they would call as some kind of a developmental authority.

MR. MAAMBONG: In that case, if we are intending to form a public quasi-corporation, then we do not need to submit it to a plebiscite for the approval of the voters. I cannot recall a situation where the formation of a public quasi-corporation is submitted to a plebiscite. So, probably in the Commissioner's proposed amendment, we could stop after the phrase "as may be provided by law," if that is agreeable to the Commissioner. At any rate, that will have to be submitted to the Committee.

Thank you, Madam President.

MR. NOLLEDO: The Committee sympathizes with the amendment, but regrets that it cannot accept the same unless Commissioner Aquino will end with "in accordance with law," without submitting the same to a plebiscite because it seems to me that Section 9 contemplates a temporary aggrupation.

MS. AQUINO: Not necessarily temporary but a voluntary aggrupation.

MR. NOLLEDO: A voluntary aggrupation, yes. To my mind, this will open again the avenue towards the formation of autonomous regions if we submit it to a plebiscite and give it some permanent . . .

THE PRESIDENT: Will Commissioner Aquino insist on her amendment?

MS. AQUINO: Madam President, my concern is the very vague, all-encompassing and all-embracing

interpretation that could be read into the phrase "for purposes commonly beneficial to them." However, if we can put for the record the essential delimitations of that concept, then I would concede to the deletion of the last portion of my amendment and stop after "in accordance with law."

MR. NOLLEDO: I am agreeable.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: My reading of this is that it encourages local governments to experiment some kind of cooperation among themselves, and if from the very beginning we require a law governing them before they can do it, it would seem to discourage the experimentation. It would seem to me that even if we do not say "as may be provided by law," it would still be within the power of the legislature eventually to pass some kind of law regulating whatever is happening after some experimentation. But if from the very beginning we say "as may be provided by law," then the intent would seem to be that the local governments will have to wait for legislation to be passed before they can even begin to experiment on these things.

MS. AQUINO: Actually, this Representation contemplates it in the nature of a general enabling act, for the creation of some kind of a developmental authority or an amalgam of local governments to precisely undertake the purposes provided for in what is now Section 9.

FR. BERNAS: But would it not be better for us to wait a little bit after some experimentation on this before trying to formulate some kind of enabling act? There is nothing to prevent the legislature later on from formulating a law governing this. Right now, it would seem to me to better leave them free to seek ways of doing this unhampered by preexisting legislation.

THE PRESIDENT: What does Commissioner Aquino say?

MS. AQUINO: Madam President, I would insist on my amendment to insert "in accordance with law" because whether we like it or not, in political dynamics any form of consolidation, amalgamation or aggroupment assumes a political color which can create a bailiwick for a particular persuasion or particular political party. The intention, therefore, of the amendment is to confine it within the modicum of statutory restraints in the nature of a general enabling act.

MR. OPLE: Madam President.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Will Commissioner Aquino yield to a clarificatory question?

Since the Commissioner mentioned a regional development authority, will the regional development council found in Section 10 be an appropriate mechanism?

MS. AQUINO: No, not necessarily. I just mentioned the term "developmental authority" at the instance of the suggestion of some of those who appeared in the Legislative Committee meeting; it was just a nomenclature. It is not necessarily intended to define the powers.

MS. ROSARIO BRAID: Thank you.

MR. NOLLEDO: May I ask a question.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Suppose there is no implementing statute because the Commissioner said "in accordance with law"? Can this provision, without an implementing statute, be self-implementing?

MS. AQUINO: No.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Yes, I just wanted to call the attention of the Commission to the fact that this provision was actually adopted from the 1973 Constitution and notwithstanding the lapse of some time since this came into force and effect, we have not heard of local governments grouping themselves for their common beneficial purposes except for one brief experiment and that was in Metro Manila. I understand that no one was happy about that experiment and so that provided the basis for a decree creating the Metro Manila Commission. I think that the concern of Commissioner Bernas that local governments should start experimenting with this innovative form of regrouping for common benefit will be better served if there is a general enabling act that will provide confidence to mayors and their municipal councils that there is, in fact, an implementing law that suggests a more specific structure under which this form of cooperation — to which we all agree is very commendable and should be attempted — could exist. And so that explains why the Committee agrees to the amendment of Commissioner Aquino which, in effect, would provide for a general enabling act to give more substance and meaning to this otherwise unutilized constitutional provision.

MR. MAAMBONG: Madam President, just one question to clear up a point.

The proponent mentioned that the intended vehicle may be a quasi-public corporation, but that not a limiting term. What I mean is, they could form in some other way, not in any way limited to a quasi-public corporation; they may form an association which may be registerable other than a quasi-public corporation for the same purpose.

MS. AQUINO: That would have to be covered precisely by the general enabling act being contemplated in this amendment.

MR. MAAMBONG: Yes, but I was just thinking that if we really define it as a quasi-public corporation and nothing else that may be limiting to Congress.

MS. AQUINO: But that is not simply possible.

MR. MAAMBONG: So, the answer is, it does not have to be a quasi-public corporation. It could be another form, another vehicle for this purpose.

MS. AQUINO: Yes.

MR. MAAMBONG: Thank you.

FR. BERNAS: Madam President, did I hear the proponent say that in the absence of such an enabling law, the municipalities will not be able to do anything?

MS. AQUINO: Yes, Madam President. On the one hand, it could be perceived the way the Commissioner said it. It could stifle initiative. On the other hand, in the context of Commissioner Ople's comment, this could precisely vest legal fiat on any effort or initiative that would be set in this trend.

FR. BERNAS: But if we put "in accordance with law," would the Commissioner at least agree to the interpretation that even before that law is passed, they may begin a cooperative effort?

MS. AQUINO: I am concerned about a political adventure which would assume a partisan political color. I am very aware of the experience of the creation of the Metro Manila Commission. It may be an overreaction, but if we could make it clear for purposes of interpretation that this is not essentially a self-executing provision, however, it does not intend to delimit or inhibit initiatives that would lead to the creation of amalgam or consolidated bodies, then I would concede to that kind of an interpretation.

MR. RAMA: The body is ready to vote, Madam President.

THE PRESIDENT: Will Commissioner Aquino restate her amendment?

MR. NOLLEDO: I will read on behalf of Commissioner Aquino.

As amended, Section 9 should now read. "Local government units may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them IN ACCORDANCE WITH LAW."

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: What is now the interpretation if this proposal is passed? Will it not prohibit political units and municipalities from starting an initiative on their own?

MS. AQUINO: Yes.

MR. BENGZON: According to the interpretation of Commissioner Bernas?

MS. AQUINO: According to the interpretation of Commissioner Bernas.

MR. BENGZON: So, that is the sense of the Commissioner, as read into the record.

MS. AQUINO: I have conceded to that interpretation.

THE PRESIDENT: In other words "IN ACCORDANCE WITH LAW" does not deter them from exercising their initiative and grouping themselves; is that correct?

MR. OPLE: Yes.

MR. NOLLEDO: Yes.

THE PRESIDENT: Does the Committee accept the proposed amendment?

MR. NOLLEDO: Yes, the Committee accepts the amendment.

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

MR. NOLLEDO: Shall we proceed to Section 10?

THE PRESIDENT: Yes, please.

MR. NOLLEDO: Section 10 states:

The Congress may provide for regional development councils composed of local government officials with such adequate powers as may be prescribed by law, designed to accelerate the economic and social growth of the local government units.

Actually, Madam President, this was suggested by Commissioner Monsod in order to bring down powers to local

government officials.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I have some amendments on this particular section.

On line 16, change the word "Congress" to PRESIDENT; and then change the word "may" to SHALL.

On line 17, after the word "councils," insert OR OTHER SIMILAR BODIES.

On lines 18 and 19, delete "with such adequate powers as may be prescribed by law" and substitute AND REPRESENTATIVES OF MINISTRIES AND OTHER APPROPRIATE GOVERNMENT OFFICES AND NON-GOVERNMENTAL ORGANIZATIONS WITHIN THE REGIONS FOR PURPOSES OF EFFECTIVE ADMINISTRATIVE DECENTRALIZATION.

Before the word "accelerate," insert STRENGTHEN THE AUTONOMY OF THE UNITS THEREIN AND TO, and on the same line, after "growth," insert AND DEVELOPMENT.

On line 20, delete "local government" and after "units," insert IN THE REGION.

So, the entire section will read: "The PRESIDENT SHALL provide for regional development councils OR OTHER SIMILAR BODIES composed of local government officials AND REPRESENTATIVES OF MINISTRIES AND OTHER APPROPRIATE GOVERNMENT OFFICES AND NON-GOVERNMENTAL ORGANIZATIONS WITHIN THE REGIONS FOR PURPOSES OF EFFECTIVE ADMINISTRATIVE DECENTRALIZATION to STRENGTHEN THE AUTONOMY OF THE UNITS THEREIN AND TO accelerate the economic and social growth AND DEVELOPMENT of the units IN THE REGION."

MR. OPLE: Madam President, will Commissioner Davide yield to a question?

MR. DAVIDE: Gladly, Madam President.

MR. OPLE: This section speaks of regional development councils and, as amended by the Commissioner now, such other bodies as may be formed. Does not the term "regional development councils" actually refer to the ongoing regional development councils utilized by the NEDA as its regional offices under existing arrangements right now?

MR. DAVIDE: At the beginning, that could be. That is why we added the phrase OR OTHER SIMILAR BODIES because later, the President might decide to establish other regional bodies than those presently existing.

MR. OPLE: The function of the RDCs, as they are known by that acronym, is mainly to participate in a planning process from the province through the region. I think they are also utilized as a medium for proposing allocations of infrastructure funds set aside in the budget for a region but which must be still allocated to the component provinces and cities of that region under the parameters established by the Ministry of Public Works and Highways and the NEDA jointly. So, it is in that context of the function now exercised by the regional development councils as the regional unit of the NEDA that I want to ask whether in the view of the proponent of the amendment this has anything to do with the strengthening of local autonomy.

MR. DAVIDE: It will certainly contribute. That is why we added an additional function, another purpose — administrative decentralization to strengthen the autonomy of units therein, and to accelerate the economic and social growth and development of the units and the region itself.

In other words, we have sought to introduce the concept of administrative decentralization as distinguished from

political decentralization. The two must come together or must work hand-in-hand to promote the socioeconomic development not only of the component units but, to a greater degree, the region.

MR. OPLE: Madam President, if the function of these RDCs is a planning function including proposals to allocate certain sums of public funds for infrastructure projects within a region subject to the approval not only of the NEDA in Manila but also of the different ministries of the national government, I do not see how this directly correlates with administrative decentralization and the strengthening of local autonomy, unless the proponent now wishes to enlarge, augment and perhaps make more permanent the functions of the regional development councils.

MR. MONSOD: May I ask for recognition, Madam President. I may be able to explain some of the issues that have been raised.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: It is my understanding that since the new government took over, the functions of the regional development councils are in the process of being enlarged. Unlike in previous years where it is a top-to-bottom planning process, it is now a bottom-up planning process. What is happening now in the regional development councils — consultations with local officials and also nongovernmental institutions or organizations — is that they are the ones being asked from which projects and programs to flesh out the framework for economic development. The second part of that is supposed to be the coordinating and monitoring process on how these projects and programs are being implemented, with the private sector itself being a part of the monitoring process. So, both a top-to-bottom and bottom-up process is going on in the regional development councils since the assumption of the new government.

MR. OPLE: May I ask Commissioner Monsod whether in the enlargement of the functions of the regional development councils, decentralization of administrative services is included.

MR. MONSOD: I believe that that is one of the expansions of functions or qualifications that they are working at in order to implement and concretize decentralization of government functions.

MR. OPLE: It is understood, of course, that the regional development council is based on so-called regions that are not invested with the authority and aura of municipal corporations, am I correct?

MR. MONSOD: Yes, Madam President, because it is essentially a coordinative body. But I believe that what would come out of the new section — and I am with Commissioner Davide on this — is that there should be a better definition of this as the experience accumulates so that it will evolve truly into a more decentralized organization or administration of government.

MR. OPLE: The regions are not recognized in the enumeration of political subdivisions. But does the Commissioner think that through the process of strengthening regional planning and consultations, they might rise someday to the level of a political subdivision?

MR. MONSOD: That is possible, Madam President, and the reason we have some information on this is that there are several nongovernmental organizations that are discussing with the ministries their possible role in the future as nongovernmental organizations. In the process, they are already participating and being consulted in this bottom-up process.

MR. OPLE: Thank you, Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I would like to ask a question or two of the proponent of the amendment.

I notice that the word "Congress" under the Commissioner's amendment has been substituted by the word PRESIDENT in the style of the sentence.

MR. DAVIDE: Yes, for the reason that when it comes to administrative decentralization or the thrust of the proposal, it should really be a presidential function. In other words, we should give the President greater flexibility. If we leave it to Congress, Congress may not provide it at all. That is why I said in my proposal, among others, that we should change the word "may" to SHALL.

MR. FOZ: Does the Gentleman not think that even without a provision, as the Gentleman would amend it, the President has the power to create, by executive order, certain administrative bodies or executive bodies that would achieve the purpose of the Gentleman's amendment?

MR. DAVIDE: It can be left to his discretion; but in line with the policy we are adopting — that is, greater local autonomy and broader administrative decentralization of executive functions — I would propose, as the Committee itself had originally proposed, that that should be a mandate so it could really be organized.

MR. FOZ: But per information given by Commissioner Monsod that such things are now going on and in a more creative manner — as a matter of fact, he mentioned the bottom-up process of consultation and monitoring of plans or planning of projects — does the Gentleman not think that the President is within his power to pursue the idea even without any specific constitutional provision in the tenor of the proposed amendment?

MR. DAVIDE: If we provide this particular section, the President could have a stronger basis for his action and, therefore, he would have the greater courage to pursue the objectives. He or she will have a constitutional basis for his or her acts.

MR. FOZ: On the other hand, if that is the purpose of the Gentleman, does he not think that Congress should be involved in this so that the hand of the President is better strengthened in carrying out the objectives of this provision?

MR. DAVIDE: We know pretty well how the work in Congress will be; so the political issue might be injected into this beautiful proposal if it would be the act of Congress itself.

MR. FOZ: But just the same, the President may have to turn to Congress for specific proposals to carry out his objectives in line with this amendment.

MR. DAVIDE: There is nothing that can prevent Congress to enact a law or a resolution making the necessary proposals as additional inputs to the President's act in providing for the regional development councils or similar bodies.

MR. FOZ: Thank you.

MS. NIEVA: Madam President.

THE PRESIDENT: Commissioner Nieva is recognized.

MS. NIEVA: Yes, in support of the amendment of Commissioner Davide, would the Gentleman be amenable to strengthening this proviso even further by specifically providing that such councils should provide — or whatever term the Gentleman might want to use — consultative mechanisms with the different sectors of the region in the formulation, planning, implementation and monitoring of projects and programs? As stated by Commissioner Monsod, they are beginning to do this bottom-up approach. I remember that when we go around the different regions discussing and consulting with the NEDA, the complaint of the NEDA always was that they could never

get the people in the region to participate in the implementation of their programs and they were very happy when the private sector would come in and bring them together. So, as Commissioner Monsod said, they are beginning to do this. Would it not help if we also constitutionalize this consultative mechanism or is that already included in the term "as may be prescribed by law"?

MR. DAVIDE: It is already included in the composition of the regional development councils or other similar bodies. Among those who will compose these would be nongovernmental organizations. So, they are there already.

MS. NIEVA: So, that will include the consultation . . .

MR. DAVIDE: Yes, it will include everything — consultation, monitoring, and others.

MS. NIEVA: It will include the whole process. If that is understood, then I would not insist further.

Thank you.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Would Commissioner Davide entertain a question and a possible amendment?

MR. DAVIDE: We would gladly entertain and consider the proposed amendment.

MS. ROSARIO BRAID: There are efforts now by the private sector in certain regions and provinces to organize themselves; they call themselves private or provincial development councils. These councils think they could work on their own and cooperate with the existing regional development councils. I would agree that although there is an effort now on the present RDCs to expand, their experience in the past may prevent the desired aim of closer public-private coordination.

I think the concepts of bottom-up and participatory communication have been practiced over the past 10 years, even if unsuccessful. But nonetheless, in most of these RDCs and municipal development councils, only the elite participated. It was a government effort with very little private participation. I think this is what has encouraged many members of the private sector to organize. We are aware of certain regions like Negros which have active private development councils.

As a matter of fact, the present officer-in-charge in Negros is relying primarily on the private development council as his main arm in going about his planning in the government. The amendment that I would like to propose as amendment to this provision reads: THE STATE SHALL FURTHER ENCOURAGE THE ESTABLISHMENT OF PRIVATE DEVELOPMENT COUNCILS WHICH WILL COOPERATE WITH THE REGIONAL DEVELOPMENT COUNCILS.

MR. DAVIDE: If this section will be approved, the President, in the exercise of his discretion, would consider the inclusion in the development councils or similar bodies members from nongovernmental organizations because it is already included in my proposal. So, the private development council may either be represented in the council itself at the instance of the President. Besides, I am sure that in the light of the answer given by Commissioner Monsod and also in the light of the answer that we had given to the question of Commissioner Nieva, all the sectors will be consulted by these development councils.

The main problem is that under the Commissioner's proposal, I understand that in the Article on Social Justice, the role of people's organizations has been recognized, and adequate consultative mechanisms have already been provided for. So, they can complement each other.

MS. ROSARIO BRAID: I think this amendment is made in the light of the concept of subsidiarity or private initiative. Here, the initiative will come from the private agencies rather than from the government taking the primary responsibility in coordinating with the private sector.

I think the idea of more decentralization and less centralized planning, lessening the role of NEDA and the government role in planning is to let the private agencies be the main engine of growth in a worthwhile concept.

In the light of these and as we now can showcase our experiences of private initiative in organizing itself for problem-solving in cooperation with the regional development councils, I propose this amendment.

The concept is not for the RDCs to absorb private councils but for the latter to organize themselves and to link their efforts with RDCs.

MR. DAVIDE: I would consider the very important provisions on people's organizations in the Article on Social Justice, which were originally Sections 19 and 20, the main proponent of which is Commissioner Garcia.

I take it to mean that these independent regional development councils, at the instance of private initiative, can come in easily under what have been approved originally as Sections 19 and 20 — if I remember correctly — in the Article on Social Justice.

MS. ROSARIO BRAID: That is true, but we would like to institutionalize these private development councils so that they are able to work together with the existing government RDCs.

MR. DAVIDE: As worded, all nongovernmental organizations are taken into account in the proposal, not only that they can work side by side with, or even be members of the regional development councils or any other similar bodies. But we will give the discretion to the President.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, may I just say that the manifestations of Commissioner Rosario Braid are certainly meritorious, but she must also remember that there are other bodies like the people's economic councils which are also being organized.

So, there are many nongovernmental bodies that will play a part in this. We need not focus on the private development councils because there are many types of nongovernmental organizations.

To constitutionalize private development councils individually rather than subsumed under nongovernmental organizations would really veer away from the concept of the regional development councils, with private sector participation because, after all, what is being talked about here are government expenditures, and the private sector even under our Constitution is free. It has the initiative, and it has only a coordinative function with the government. Also, as Commissioner Davide said, they are subsumed under nongovernmental organizations.

MS. ROSARIO BRAID: I will withdraw my amendment as long as the concept of coordinating and equal role of private organizations is included in this amendment.

Thank you, Madam President.

MR. RAMA: The body is ready to vote, Madam President.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, may I have a clarification. Under the present proposed amendment, what is the exact composition of these regional development councils because the draft I have here from Commissioner Davide only mentions of local government officials?

Although I have very limited experience in regional development councils, I notice that if a regional development council is only composed of local government officials, it could not succeed in its work without the support of the heads of line ministries within the regions. For example, in the Regional Development Council of Region VII, the support staff is actually the NEDA of Region VII. So, I would like to know the exact composition as proposed.

MR. DAVIDE: Based on the section, after "government officials," the following were added: "AND REPRESENTATIVES OF MINISTRIES AND OTHER APPROPRIATE GOVERNMENT OFFICES AND FROM NON-GOVERNMENTAL ORGANIZATIONS WITHIN THE REGIONS."

MR. MAAMBONG: Would it be all right if we use the word HEADS instead of "REPRESENTATIVES" because when we say "HEADS OF MINISTRIES WITHIN THE REGION," we are actually referring to regional directors who, under the present composition of the regional development councils, are actually members of the regional development councils?

Just for the record, from my understanding, the regional development councils now are composed of the provincial governors, the city mayors, the regional directors, the president of the municipal mayors league, and private individuals who are experts in their fields.

So, it would be more in keeping if we say "HEADS OF MINISTRIES WITHIN THE REGIONS," with specific reference to regional directors of line ministries. Is that all right with the Gentleman?

MR. DAVIDE: So, it will now read: "government officials AND HEADS OF MINISTRIES AND OTHER GOVERNMENT OFFICES AND NON-GOVERNMENTAL ORGANIZATIONS WITHIN THE REGIONS."

We accept the amendment.

MR. RAMA: What does the Committee say before we vote?

MR. NOLLEDO: The Committee would like to submit the same to the body.

THE PRESIDENT: The important matter here is, whether we will change "Congress" to PRESIDENT. In principle, there is nothing controversial, I believe, except in whom to vest this power — the Congress or the President. Are we ready to vote on this?

MR. NOLLEDO: We have some misgivings.

MR. RAMA: We are ready to vote, Madam President.

THE PRESIDENT: Will Commissioner Davide read the entire section, as amended.

MR. DAVIDE: As proposed, it will now read as follows: "The PRESIDENT SHALL provide for regional development councils OR OTHER SIMILAR BODIES composed of local government officials AND HEADS OF MINISTRIES AND OTHER GOVERNMENT OFFICES AND REPRESENTATIVES FROM NON-GOVERNMENTAL ORGANIZATIONS WITHIN THE REGIONS FOR PURPOSES OF ADMINISTRATIVE DECENTRALIZATION to STRENGTHEN THE AUTONOMY OF THE UNITS THEREIN AND TO accelerate the economic and social growth AND DEVELOPMENT of the units IN THE REGION."

VOTING

THE PRESIDENT: As many as are in favor of this proposed 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 21 votes in favor and none against; the proposed amendment is approved.

MR. DAVIDE: For the record, Madam President, the following are the coauthors of the amendment: Commissioners Monsod, Bengzon and Maambong.

MR. RAMA: Madam President, I ask that we proceed to Section 11.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, as far as Section 11 is concerned, I only have one manifestation to make which I reserved when I presented the amendment to Section 1. On Section 11, the word "barrio" should be changed likewise to BARANGAY.

Thank you, Madam President.

THE PRESIDENT: Where is the word "barrio"?

MR. NOLLEDO: The Commissioner is referring to the old Section 11, which is now Section 14.

MR. MAAMBONG: I was referring to the original draft. I am referring to Section 14 now.

THE PRESIDENT: May we inquire from the Chairman what is Section 11 now? Is this the original section?

MR. NOLLEDO: Section 11, Madam President, reads: "Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines as Congress may provide. A local government unit shall likewise have the power to levy and collect charges or contributions unique, distinct and exclusive to it."

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I have a proposal to reduce the original Sections 8, 9 and 10 which are now Sections 11, 12 and 13. The amendment reads: SEC. 11. LOCAL GOVERNMENT UNITS SHALL HAVE THE POWER TO CREATE ITS OWN SOURCES OF REVENUES, AND TO LEVY, IMPOSE, AND COLLECT TAXES, FEES AND CHARGES, SUBJECT TO THE GUIDELINES AS MAY BE PRESCRIBED BY LAW BUT CONSISTENT WITH THE BASIC POLICY OF AUTONOMY FOR SUCH UNITS, WHICH SHALL ACCRUE EXCLUSIVELY TO SUCH UNITS.

SECTION 12. LOCAL GOVERNMENTS SHALL HAVE AN EQUITABLE AND JUST SHARE, AS MAY BE DETERMINED BY LAW, IN THE NATIONAL TAXES, WHICH SHALL BE PERIODICALLY AND AUTOMATICALLY RELEASED TO THEM, AND IN TAXES, FEES AND CHARGES IMPOSED AND COLLECTED FROM OR OTHER PROCEEDS OF THE EXPLOITATION, EXPLORATION, UTILIZATION AND DEVELOPMENT OF NATURAL RESOURCES WITHIN THEIR RESPECTIVE AREAS.

MR. NOLLEDO: Therefore, the Gentleman deleted the second sentence of now Section 11.

MR. DAVIDE: Yes, for the reason that it is already included in the authority to create its own sources of

revenues, and to levy, impose and collect taxes, fees and charges.

MR. NOLLEDO: The second sentence, Madam President, is not subject to the guidelines as the Congress may provide. I find some superfluities with respect to the general rule on the levy of taxes, fees and charges. As far as I am concerned, the provisions should be separated from each other in order to recognize the importance of each provision especially Section 13, which was based on an Ople resolution.

MR. DAVIDE: Yes, that is already included.

MR. NOLLEDO: Madam President, the Committee would like to study the amendment further.

THE PRESIDENT: Yes, copies have already been distributed.

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: So, the Committee is not ready to react on the amendment this afternoon or does the Committee need time?

MR. NOLLEDO: Because we are objecting to the deletion of the second sentence of Section 11. That deletion would result in the disregard of customs and traditions existing in various indigenous communities.

MR. DAVIDE: If the proposal cannot be acted on yet, I have an amendment for the original Section 11, which is now Section 14. On line 8, page 3, delete the words "political unit or" so that the line will only read: ""units directly affected."

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I have an amendment affecting Section 14. This would involve just a transposition of the section to make it follow Section 2 because Section 14 talks of creation, division, merger, abolition or alteration of boundaries of province, city, municipality or barangay. Since it involves changes in the boundaries of local government units, this provision is more directly related to Section 2 of the draft article. So, logically it should follow Section 2, perhaps as a new section because Section 2 is already long as it is. Therefore, the amendment is just to transpose Section 14 to make it Section 3, Madam President.

MR. NOLLEDO: Is the Gentleman referring to the original Section 2, because the present Section 2 is the Padilla amendment? The Gentleman must be referring to the original Section 2 which is now Section 3.

MR. FOZ: I am referring to that provision regarding the enactment of a local government code.

MR. NOLLEDO: Yes, that is now Section 3.

MR. FOZ: Then with that numbering, Section 14 should be transposed after Section 3, so it should be Section 4.

MR. NOLLEDO: The Committee has no objection to that amendment.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: But before it is transposed, I request the deletion of the words "political unit or" on line 8 so that the line will read: "units directly affected."

MR. MAAMBONG: Madam President, I object to the deletion of the word "political." I can live with the deletion of "unit or" but not the word "political."

MR. DAVIDE: I agree, as modified. We retain "political" so it will only read "political units directly affected."

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

Is there any objection to the transfer after Section 3? (Silence) The Chair hears none; the amendment is approved.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I am going back to Section 11, originally Section 8, with regard to the power to levy taxes. I notice that the Committee changed the word "limitations" as provided in Section 5 of the 1973 Constitution to "guidelines."

I suppose the proposed change is in line with more local autonomy. I am in favor of more local autonomy but in considering or granting the power to tax, some cases state that the power to tax includes the power to destroy. Does not the Gentleman believe that in addition to "guidelines," we should reinstate the word "limitations" because "guidelines" is sort of a prospective directive? It does not give the Congress any power to revise or reverse some actions that may be taken by the political units in the exercise of their power of taxation. For example, there may be more taxes imposed by local units, and the Congress may not be able to prescribe certain reasonable limitations. The Ministry of Finance may be against the imposition of certain taxes that may be considered inimical not only to the economic expansion of the region but even to that of the national economy. The Congress, and even the executive, will have no authority or power to regulate nor limit this very extensive power of taxation.

My suggestion is to also use "limitations" as Congress may prescribe.

MR. NOLLEDO: The use of the word "guidelines" is in favorable reaction to the requests of the League of Governors and City Mayors when, through the courtesy of Commissioner Calderon, I met them at Aberdeen Court. They said that P.D. No. 231, which was promulgated by Mr. Marcos, authorizing local governments to levy taxes is full of limitations and restrictive provisions that the power to tax local governments is, in effect, negated. In fact, Mr. Marcos enumerated in Section 5 — if my memory serves me right — the taxes that local governments cannot impose. Their hands are tied in imposing local taxes, fees and charges. So, they asked me to present their plea to this Commission — to just use the word "guidelines." This means that the word "limitations" is anathema and will deny them the effective decentralization they are clamoring for. Madam President, I think this question is terribly important that this should be presented tomorrow morning so that the other Commissioners may be able to ponder upon them meticulously.

MR. PADILLA: I have no objection because this is quite important. Of course, from the point of view of local executives, they would want more plenary powers of taxation, being a very important and very delicate power which may have far-reaching effects.

MR. NOLLEDO: The power of taxation is subject to well-settled limitations — that they must be for public purposes, uniform and must not be confiscatory. We can enter them into the record to be observed by local governments in the imposition of local taxes.

Thank you, Madam President.

ADJOURNMENT OF SESSION

MR. RAMA: Madam President, I move for adjournment of the session until tomorrow at nine-thirty in the morning.

THE PRESIDENT: The session is adjourned until tomorrow at nine-thirty in the morning.

It was 7:07 p.m.

[*] Appeared after the roll call

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.