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Tuesday, August 12, 1986

OPENING OF SESSION

At 9:44 a.m., the President, the Honorable Cecilia Muñoz Palma, called the session to order.

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 Ahmad Domocao Alonto.

Everybody remained standing for the Prayer.

PRAYER

MR. ALONTO: Wa qaala Rabbukum ud-'uunii 'astajib lakum. And your Lord hath said: Call to Me that I may answer your call . . .

Bismillaahir-Rahmaanir-Rahilim. — In the name of Allah, Most Benevolent and Most Merciful.

We begin in Thy Holy Name, O God, to firm our hope for Thy Eternal Grace.

'Al-Hamdu Li'llaahi Rabbi'l-halamin; — All Praise be to Allah, Lord of all the Worlds;

Verily none is worthy of praise save Thou, O God, as Thou, and only Thou, is the Creator, Protector, Preserver and Sustainer of the Universe.

'Ar-Rahmaanin-Rahiim; — Most Beneficent, Ever-Merciful;

Thy ever-watchful and inexhaustible grace, O God, is what we need most to guide us in this period of crises and revolution, of restlessness and anguish, of anxiety and frustrations, to light our way amidst our nascent but sincere effort of nation-building.

Maaliki Yawmid-Diin! King of the Day of Judgment;

We, who are Thy obedient servants in this tiny corner of Thy Universe, O God, are fully aware and do firmly believe that one day everyone will have to render account of all his acts to Thee.

'Iyyaaka na'-budu wa 'iyyaaka nasta-'iin. — You alone we worship; and to You alone we turn for help.

We affirm that none is worthy of worship and devotion, submission and obedience, and subjection and servitude, except Thou, O God, and we affirm that we are Thy worshippers, Thy subjects and Thy slaves; keeping these relations with Thee and Thee alone; and so we ask Thy help as Thou art the Lord of the whole Universe and Thou hast all powers and Thou art the Master of everything; and verily, only Thee can give us help for the fulfillment of our cry for justice, freedom and democracy.

'Ihdinas-Siraatal-Mustaqiim — Guide us to the straight path,

We confess, O God, that events in this country in the past few years have confused our vision and made us lose sight of the right way — the way that can lead us aright in every walk of life and can keep us free from errors and evil consequences and bring success in the end, so "Thine Will be done."

Siraatal-laziina 'an-'amta 'alay-him — The path of those whom Thou hast favoured;

We affirm our commitment, O God, to the ways of those excellent exemplars of human behavior who have not deviated a jot away from Thy blessed way throughout the whole course of human history — the Anbiyya or the Prophets, the Siddiqin or the Faithful, the Shuhada or the Martyrs, and the Salihin or the Righteous —

Gayril-magzuubi 'alay-him wa laz-zaaalliin. — Not (the path) of those who earn Thine anger nor of those who go astray.

Rabbanaa las tuzig quluubanaa ba'-da 'iz hadaytanaa wa hablanaa milladuñka rahmattan 'innaka 'Antal-Wahhaab.

Our Lord! Cause not our hearts to stray after Thou hast guided us, and bestow upon us mercy from Thy Presence. Lo! Thou, only Thou, art the Bestower!

Our Lord! We pray for Thy guidance in framing the fundamental law of the land and grant that by it, we can establish Ummattun yadu'una ila'l khayr wa ya' muruuna bil ma'ruuf wa yanha'una ani'l Munkar. . . a nation that invites to goodness, enjoins what is right and forbids what is evil. AMEEN. YA RABBAL'ALAMIIN.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present Nieva Absent

Aquino Present[*] Nollado Present[*]

Azcuna Present[*] Ople Present

Bacani Present Padilla Present

Bengzon Present[*] Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Absent

Rosario Braid Present Reyes de los Present

Brocka Present Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion Present Sarmiento Present[*]

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present[*] Tadeo Present

Gascon Present Tan Present

Guingona Absent Tingson Present

Jamir Present Treñas Present

Laurel Present[*] Uka Present

Lerum Present Villacorta Present

Maambong Present Villegas Present

Monsod Present

The President is present.

The roll call shows 36 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 yesterday's session.

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

APPROVAL OF JOURNAL

MR. CALDERON: Madam President, I move that we approve the Journal of yesterday'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 Proposed Resolution on First Reading, Petition and Communications, the President making the corresponding references:

PROPOSED RESOLUTION ON FIRST READING

Proposed Resolution No. 538, entitled:

RESOLUTION FOR THE CONSTITUTIONAL COMMISSION TO CONGRATULATE SENATOR TAÑADA.

Introduced by Hon. Villacorta, Muñoz Palma, Bernas, Tan, Abubakar, Alonto, Aquino, Azcuna, Bacani Bengzon, Jr., Bennagen, Rosario Braid, Brocka Calderon, de Castro, Colayco, Concepcion, Davide, Jr., Foz, Garcia, Gascon, Guingona, Jamir Laurel, Jr., Lerum, Maambong, Monsod, Natividad Nieva, Nollado, Ople, Padilla, Quesada, Rama Regalado, de los Reyes, Jr., Rigos, Rodrigo, Romulo, Rosales, Sarmiento, Suarez, Sumulong Tadeo, Tingson, Treñas, Uka and Villegas.

To the Steering Committee.

PETITION

Petition of the Honorable Commissioners Decoroso R. Rosales, Jose D. Calderon, Teodoro C. Bacani, Eulogio R. Lerum, Hilario G. Davide, Jr., Adolfo S. Azcuna, Teodulo C. Natividad and Jose B. Laurel, Jr., expressing support of the Petition of the Honorable Commissioners Lugum L. Uka, Napoleon G. Rama, Florenz D. Regalado, Regalado E. Maambong, Jose N. Nollado, Ma. Teresa F. Nieva, Yusup R. Abubakar and Hilario G. Davide, Jr., asking the Committee on Human Resources to submit to the Constitutional Commission of 1986 a consolidated committee report.

(Petition No. 2 — Constitutional Commission of 1986)

To the Committee on Human Resources.

COMMUNICATIONS

Communication from Mr. Dorentino Z. Floresta of the Knights of Columbus, Council 3722, Olongapo City, saying that if the Filipino people thru its President, Corazon C. Aquino, decides to extend the US military bases in the Philippines, he strongly recommends that the compensation given to the Philippine government by the U.S. government for the use of the bases be considered rental and the same shall be increased in accordance with the prevailing rentals paid by the United States to Spain, Korea, Japan, Turkey, and Germany; that the Labor Code of the Philippines shall be applied to the labor-management relationship inside the bases; that criminal offenses committed by American servicemen must be tried by the Philippine courts; and that the Philippine government shall have effective control over the bases including the operation of business establishments.

(Communication No. 524 — Constitutional Commission of 1986)

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

Thirty-seven letters with eleven thousand seventy-nine (11,079) signatories with their respective addresses, all seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 525 — Constitutional Commission of 1986)

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

Letter from Mr. Jaime Z. Bermudez of Agbannawag, Rizal, Nueva Ecija, urging the Constitutional Commission to include provisions on land reform that would enable small landowners to recover their lands from their tenants.

(Communication No. 526 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Communication from the Council of the Laity of the Philippines, CAP Bldg., 372 Cabildo Street, Intramuros, Manila, signed by its President, Henrietta Tambunting de Villa, seeking inclusion in the Constitution "the right to life from conception" and the integration of "religious instruction" into the primary and secondary educational system.

(Communication No. 527 — Constitutional Commission of 1986)

To the Steering Committee.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I move that we continue consideration of Committee Report Nos. 21 and 25 on Proposed Resolution No. 511, the Article on Local Governments.

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

The honorable Chairman and members of the Committee on Local Governments are requested to occupy the front table.

MR. VILLACORTA: Madam President.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: In the Reference of Business, there was a petition submitted by the honorable Commissioner Decoroso Rosales, et al, requesting the Committee on Human Resources to submit to the Constitutional Commission a consolidated committee report. This puzzles the members of the Human Resources Committee because we had already a long time ago submitted a consolidated report. This gives a wrong impression to the public about the efficiency of our Committee. We do not fully understand the intention of this petition.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended for a few minutes to check with the Secretariat.

It was 9:58 a.m.

RESUMPTION OF SESSION

At 10:13 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 Villacorta be recognized.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, given the stature of our Commission, I shall try to be as restrained and as respectful as possible. But I would like to be just and fair to the members of our Committee on Human Resources who worked very hard in coming out with a report, which we submitted to the Commission as scheduled last July 15, 1986.

Because of the aggressive efforts of one lobbyist, Don Miguel Cuenco, some Commissioners signed two petitions which came as a surprise to us because we feel that after a committee has submitted its report, whatever additional recommendations Members of the Commission as well as lobbyists may have should be presented on the floor. Nonetheless, because we feel that we should be courteous to our colleagues in the Commission, we responded immediately to the first petition of some Members of the Commission.

This first petition basically requested that the teaching of Philippine geography and folk songs as well as making Spanish an official language be incorporated in the Constitution. We patiently listened last week in this meeting we had with Don Miguel Cuenco which I had to adjourn prematurely because there was endless talk from this resource person who was not even a Member of the Constitutional Commission. We are now confronted with a second petition asking the Committee on Human Resources to submit to the Constitutional Commission of 1986 a consolidated committee report. This further puzzles us. As we read this petition which was signed by Commissioners Rosales, Calderon, Bacani, Lerum, Davide, Azcuna, Natividad and Laurel, there is a statement here that "with the exception of the Honorable Wilfrido Villacorta, Chairman of the Committee who is Dean of the College of Liberal Arts of De La Salle University and the Honorable Serafin V. C. Guingona, Chancellor of Araneta University, to our knowledge there is no educator in the Committee." Actually, there are competent educators among the supporters of making English, Spanish and Filipino continue as the official languages of our country.

This is a very erroneous and unjust statement because aside from Commissioner Guingona and myself, there are six other educators in the Committee, namely: Commissioner Quesada who has been teaching for 16 years; Commissioner Rosario Braid, for 30 years; Commissioner Bennagen, for 17 years; Commissioner Uka, for 30 years; Commissioner Treñas, Dean of the College of Law Iloilo University; and Commissioner Rigos.

I would like to give our fellow Commissioners who signed the petition the benefit of the doubt. But this is just my plea to our colleagues in the Commission: Let us not allow one lobbyist to create internal dissension in this Commission. It is an affront to the integrity of this Commission, and we would like an explanation from our colleagues about the background of this second petition.

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, Madam President.

In addition to what Commissioner Villacorta said, I just want to ask the ones who signed this petition whether they read what they were signing before they signed. I get the feeling that when they signed this, it is in deference to the old man who happens to be their teacher in Cebu. As Commissioner Villacorta said, we gave in to the request of the lobbyist last week and it was short of being absurd.

Anyway, I just want to bring this up to avoid cases like this in the future. I would like to question whether the Commissioners who signed this petition read what they were signing because some of the things that were in this

particular report are just so absurd they make us look like idiots. It says here:

COMPARING THE SECTIONS WHICH THE COMMITTEE ON HUMAN RESOURCES HAS RESOLVED TO INCORPORATE IN THE NEW CONSTITUTION WITH THE SECTIONS THAT THE AUTHORS OF RESOLUTION NO. 141 SEEK TO INCORPORATE IN THE NEW CONSTITUTION, WE RESPECTFULLY SUBMIT THAT THEY ARE NOT CONFLICTING. Therefore, we, the undersigned Commissioners, respectfully ask the Committee on Human Resources to approve the following Articles which we beg leave to discuss one by one.

1. Section 6. The television owned, controlled and/or supervised by the Government shall accord prime time to Spanish programs.

The Philippine Government shall also have radio broadcasts in Spanish addressed to Latin America . . .

2. Section 7. For the preservation and propagation of the Spanish language, the Government shall provide for the teaching of courses on journalism in Spanish at the University of the Philippines, University of Sto. Tomas, and University of San Agustin in Iloilo. The Minister of Culture Education and Sports shall make representations to the Spanish Governments through the Minister of Foreign Affairs, to open courses on Spanish journalism at the Centro Cultural de España in Makati, which is a very good school for the teaching of Spanish . . .

3. Section 19 of Resolution 451 reads:

A sum of one-half million pesos has to be appropriated for the teaching of our native songs in the elementary and high school levels . . .

4. Section 13. The President of the Philippines shall create a Board on Textbooks on Philippine and World Geography to be composed of the Minister of Education Culture and Sports, the Director of Coast and Geodetic Survey, the Director of the Bureau of National Census and a representative of the Ministry of Foreign Affairs . . .

5. "Section 14. The President of the Philippines shall create an office to be named as Deputy Minister of Education, Culture and Sports for the Spanish language and the educational systems of Spain, the Spanish-speaking countries, including the educational system for the Hispanic Americans in U.S.A." . . .

6. The Authors of Resolution No. 451 hereby amend SECTION 5 thereof to read as follows:

"SECTION 5. A new Ministry entitled 'Ministry for the Conservation and Promotion of the Cebuano, Tausug and the Cebuano in Indonesia' is created. The President of the Philippines shall appoint the Minister, who shall be a Moslem Tausug, to represent the Tausugs in the City of Jolo and in the six hundred islands of the Sulu Archipelago . . .

7. "SECTION 9. The teaching of Spanish shall be compulsory in the fourth, third, second and first years in high school, public as well as private.

Discursos de Malolos y Poesias Filipinas, . . . Spanish grammar . . . shall be taught compulsory in the second and first years in the high school, public as well as private . . .

I stood up mainly because while it is the prerogative of private citizens to petition, I wish that they would think first before signing their names. Otherwise, what happens is that we do take time out to listen and go through meetings that are just so absurd they make us look like idiots.

Thank you very much.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, I do not want to go into further explanations of this. I would like to move that the petition be withdrawn. I do not want to go into further explanations not because I have not read the petition; I have read it but I signed it for it to be heard. And I think it is right that we should ask the petition to be heard. However, I ask that it be withdrawn so that it will not cause trouble anymore.

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

THE PRESIDENT: Commissioner Calderon is recognized.

MR. CALDERON: Madam President, I do not deny the right of Commissioner Villacorta or of any of my colleagues in this Commission to pinpoint a lobbyist but I certainly deem it unethical and unkind to mention names, especially if the person mentioned had an outstanding record as a parliamentarian and as a patriot. That is all, Madam President.

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

THE PRESIDENT: Commissioner Maambong is recognized.

Is this still on the same subject matter?

MR. MAAMBONG: Yes, Madam President. I do not mind saying in reply to the query of Commissioner Brocka that I was one of those who signed the first petition, not the one under consideration. As a matter of fact, in compliance with the invitation of the Committee on Human Resources in the last meeting convened because of that petition and for some other matters in the agenda, I appeared before the Committee and I would like to confirm that one of the issues taken up by that Committee in relation to this petition was the possibility of constitutionalizing the teaching of geography and folk songs at the insistence of Don Miguel Cuenco. When he was heard by the Committee, he insisted that Spanish be used as one of the national languages. Those were the issues taken, Madam President.

I had a particular reason for signing the petition because aside from the issues raised by Don Miguel Cuenco, I was very much interested in the evolution of the national language. As a matter of fact, upon my representations and through the kindness of the Chairman, Commissioner Villacorta, and with the help of Commissioners Brocka and Rigos, I was able to convince the Committee to insert as a last sentence on Section 22 of their report, Committee Report No. 29, the following provision: IN THE DEVELOPMENT OF THE NATIONAL LANGUAGE, DUE CONSIDERATION SHOULD BE GIVEN TO THE DIALECT AND LANGUAGES OF THE FILIPINOS or a statement to that effect. This was approved by the Committee, after which I felt that my job was finished. But since Don Miguel Cuenco was still there and he was insisting on other points, I suggested to the Committee — and this is on record — that the teaching of geography was already covered by Section 3 of the committee report which provides that all educational institutions should instill political consciousness. I felt that if one wants to be politically conscious, he should know what is around him and that involves the teaching of geography.

Regarding the teaching of folk songs, I also made it of record that it is, in fact, covered by Section 29 of the report which provides that the State shall support and encourage the development of a Filipino national culture.

Regarding the Spanish language, the Committee was very emphatic in telling Don Miguel Cuenco that the

Committee had already decided that the national language would not be included in the committee report. So at that moment, I felt I had done my job. We heard Don Miguel Cuenco and I thought the issue was closed. It is unfortunate that a second petition had been filed here, but I do not think we should begrudge the other Commissioners for it. Probably the other Commissioners also have a point to share with the Committee in much the same way that I did which I shared with the Committee and which the Committee kindly acceded to.

That is all I wanted to say, Madam President. I do not think there was any affront on the part of some Members of the Commission in signing this petition.

Thank you very much.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would like to express, in behalf of the Committee, a desire to delete or scrap out this second petition because it puts the members of the Committee in a very disparaging light. It is in that particular kind of tone that we responded or reacted to this early reading of a resolution that has been officially entered into the Journal. So, I think it is also but fair to react because we are very reactive human beings and we feel that this kind of unjust accusation of being incompetent would have to be corrected immediately.

Thank you, Madam President.

THE PRESIDENT: There is still a motion pending before us, the motion of Commissioner Bacani to withdraw this petition on the ground that it seeks to require the Committee on Human Resources to submit a consolidated report, which report, according to Commissioner Villacorta, has already been submitted since July 12 and this has been verified by the Secretariat.

Therefore, the Chair finds the motion to withdraw in order.

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

CONSIDERATION OF PROPOSED RESOLUTION NO. 511

(Article on Local Governments)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: Madam President, the Committee on Local Governments is now ready to continue the deliberation of Committee Report Nos. 21 and 25 on Proposed Resolution No. 511.

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

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

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President. I have a question or two to ask the Committee. During one of the meetings of this Committee where I was present, I remember that a big group of representatives from the Cordillera region was present. I heard the vehement objection of a group against the position taken by the other group for the granting of autonomy to the Cordillera region. This group impressed me as quite a big one. I suppose that the same can be said if and when the autonomous region in Mindanao is organized because we have two groups there: the Muslims and the Christians. Therefore, it is to be expected that there will be minority groups

in each autonomous region. Under Section 12, we have a list of the areas where the autonomous government would have exclusive authority. Among the items mentioned here are communal or community centers which would be intended for the benefit of the people living in the autonomous regions. They would include appointments to the administrative government; the erection or construction of schools in the barrios, health centers and other community improvements.

There is a strong possibility that these minorities may be discriminated against in the apportionment of the benefits, and the Northern Ireland experience shows us that the main problem there is not religion but the treatment of the Catholic minority in the Northern Irish government. We may have a mini-Northern Ireland situation here. So, has the Committee any safeguards in mind that would prevent this situation to take place here?

MR. NOLLEDO: The Gentleman will remember that in our report, it is provided that even if we establish the autonomous regions through congressional action the President of the Philippines shall exercise general supervision over autonomous regions to insure that laws are faithfully executed; so if there should be discrimination on various economic, social and political matters covered by existing laws, discrimination can be done away with by effective exercise of general supervision by the President.

Commissioner Bennagen would like to give further comments on the question of the Gentleman.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

Let me comment first on the observation in one of the hearings we had. The record will bear me out that the group being referred to by Commissioner Colayco is not a big group. They were only seven, and in the deliberations, we did inquire into the distinction between that group and a similar group actually bearing the same name. The answer was that there are indeed two groups bearing the same name with different sets of officers; one is headed by an anthropologist from Bicol — that was the group which was present there — and another headed by no less than a Kalinga himself. Recently, we received a joint statement of a Kalinga-led organization, which calls itself the Kalinga-Isneg Self-Rule Self-Determination Movement, and the Cordillera People's Alliance dated August 5, 1986. To lay this issue down to rest, please allow me to read the joint statement. It states:

The Kalinga-Isneg Self-Rule Self-Determination Movement (KISSM) and the Cordillera People's Alliance (CPA) express our common position of support for the establishment of a regional autonomous government in the Cordillera. We believe that by uniting the Cordillera people into one self-governing region, our rights as indigenous people can be protected and recognized.

We dissociate ourselves from Ms. Mariflor Parpan (this is the lady who was in that meeting — "who claims to represent KISSM which is the acronym of the organization). Ms. Parpan is not a true Kalinga and though she claims to hold our interests at heart, her actions merely serve to undermine interests at heart, her actions merely serve to undermine the unity we have built up through the years. Her words are her own and she cannot speak for the 2,000 members of KISSM.

We further urge all Igorots to rally behind the cause of self-determination for the indigenous people and, in his or her own way, to contribute towards the building of a just, free and democratic society in the Cordillera and in the country.

For the Kalinga-Isneg Self-Rule Self-Determination Movement this was signed by Mr. Max Garming who is the Chairman and is connected with the College of Public Administration of the University of the Philippines; he is from Bangad, Kalinga. The other signatory was Mr. Candido Basbasen who is the-Secretary-General of the same organization and also comes from Kalinga.

For the Cordillera People's Alliance, the signatories are: Fr. Patricio Guyguyon who is the Vice-Chairman of the Cordillera People's Alliance; Ms. Joanna K. Cariño who is the Secretary-Treasurer of the Cordillera People's Alliance; and Fr. Eduardo Solang, Secretary-General of the Cordillera People's Alliance.

As to the question of certain seemingly antagonistic relations amongst members of the Cordillera people across "ili," meaning, "village," and across groups, we can look at this as nothing more than quarrels across villages akin to quarrels that exist even amongst the best of families. It is in the nature of social relations that there will always be disagreements, that there will always be some kind of struggle. But given the history of the peoples of the Cordillera, this can be resolved given their extremely viable customary laws. Then, as supporting statement, the one offered by Commissioner Nollado, we should see to it that claims of this sort should also be supervised not only at the local level but also at the national level.

MR. COLAYCO: This thought occurred to me because we have seen it happen even under the present system of government — provinces which are known to have voted for the losing party generally do not get goodies from the government. For many years, Batangas had to do with very bad roads for the simple reason that Batangas voted against the President. And this can always happen under the new setup where people of barrios or cities which may have voted against the autonomous form of government may suffer the same thing.

MR. BENNAGEN: That is in the nature of social life. It is not unique to Batangas or to Cordillera, or to the Bangsa Moro. It is a matter of its being a general phenomenon.

MR. COLAYCO: That is correct, but what I want to know is, has the Committee provided for safeguards against this particular danger? This is very important; we may be solving one problem but creating others and these problems may be avoided if the Committee would think of some system introduced into the form of the government or into the organic laws to prevent the happening of this danger.

MR. NOLLEDO: Madam President, Commissioner Alonto would like to make his comments.

THE PRESIDENT: Commissioner Alonto is recognized.

MR. ALONTO: Thank you, Madam President.

The question raised by the Gentleman, who is a distinguished member of this Committee, is a very important one because discrimination is exactly the cause of bringing into the mind of those discriminated upon to raise this question of autonomy.

For historical purposes, the first sector of the Filipino society that raised the question of local autonomy was the Muslims of Mindanao because they were victims of a very serious discrimination, not only by the colonialists who were our masters in the past but even the great majority of the Filipino people to which they belong. So, this question that the Gentleman raised is a very, very vital one and should really be eliminated from our society — meaning, the Filipino society — to achieve unity of the different sectors of the Filipino society so that we can progress faster in our nation-building.

So, for purposes of the record, I would like to refer to a document prepared and submitted to a government conference called by President Marcos in 1976, which was actually the first document submitted for the purpose of structuring an autonomous government for the Muslims of Mindanao. This is a manifesto which, with your permission, I would like to read and be made part of the Record of the Constitutional Commission because this is the one that started the idea of organizing autonomous regions in this country in order to solve the problem of disunity among the different sectors of the society.[*] This is a manifesto presented before the Muslim Conference on Government Policies and Programs for Muslim Mindanao, called by President Ferdinand E.

Marcos and was held on June 4-6, 1974, more than ten years ago. This is an organization of Muslims, whose membership throughout the country was over 500,000 at that time. The Manifesto states that the Ansar El Islam, a movement of Muslims:

(1) AGREES to the holding of this Conference as it affords the Movement a chance to declare its stand, along with those of the other sectors of the Muslim communities.

(2) STATES that since its founding five years ago, the Movement has been concerned with the search for a solution to the cancerous problems facing our country; and

(3) DECLARES that the only workable solution to the national crisis in relation with the Muslim communities, short of complete independence for them, is the granting to them of a complete local autonomy, the following basic features, among others, to be guaranteed:

- A defined and guaranteed territorial jurisdiction, and

- A legislative power to adopt local laws based on the Holy Qur'an and the Sunnah of the Holy Prophet (peace be upon him).

This has been signed by over 20,000 members of the Ansar El Islam.

Another document was also presented or petitioned to the former President from the citizens of Mindanao, Sulu, Palawan, Basilan and Tawi-Tawi, which includes not only Muslims, not only non-Christian tribes, but also Christians who may be subjected to discrimination as commonly feared if we form, for example, an autonomous region in Mindanao, majority of whom are Muslims. This letter or petition to President Marcos endorses that Manifesto. This, I also submit, as part of our record.[*]

MR. COLAYCO: I want the Gentleman to know that in principle, I personally favor the proposal of the Committee.

MR. ALONTO: Yes.

MR. COLAYCO: But the discrimination I am warning against, at least in Regions IX and XII, can go both ways where, for instance, if the provincial government is in the hands of Christians, the Muslims may suffer and vice-versa.

MR. ALONTO: That is right.

MR. COLAYCO: So, I think this is a very important matter that should be looked into by the Committee.

MR. ALONTO: Yes, and I agree with the Gentleman there. Precisely, that is why I am historically tracing how this came about. It was this discrimination — I am very sorry to say so — that has placed in the minds of the Muslims in Mindanao the idea to secede from this country. And this discrimination — I am again sorry to say — came from the majority communities of our country, which are mostly Christians coming from the northern and central parts of the Philippines.

MR. NOLLEDO: Madam President, I would like to propound some questions to the Honorable Jose C. Colayco.

THE PRESIDENT: The Gentleman may proceed.

MR. ALONTO: Just a minute, I still have the floor the Gentleman does not mind.

MR. NOLLEDO: All right.

MR. ALONTO: It is the fear of many that if we have this autonomous region for the Muslims in Mindanao, the

majority community in that region will discriminate against the minority who happens to be in the region who in this case are the Christians. But I think this Constitutional Commission had already approved several provisions in the Constitution which are a prevention to any discrimination by any sector of the society.

Aside from that, the report on local governments has a guarantee on no discrimination against anyone, whether in any city, province, barrio or region having autonomy.

For the information of the body, one would expect the least Muslim to discriminate against his co-being within the area which he occupies because, according to Islam, the basic idea of an autonomy or the value or principle that God wants us to practice in our life is stated in the Qur'an which runs like this: "La-Kum dinna kum walya Dinn." This means the way you want to live life should be completely within your right, but also give me my way.

THE PRESIDENT: Is Commissioner Colayco already satisfied with the answer?

MR. COLAYCO: Yes, Madam President.

MR. BENNAGEN: Madam President.

MR. ALONTO: With the permission of the Chair, and this means live and let live, if you discriminate against anyone of your community, that is a violation of the law of God as far as the Muslim is concerned.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Madam President, I give way Commissioner Bennagen.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: The issue is of utmost importance to me and I would like to add a few comments.

We share the apprehension of Commissioner Colayco. I think these apprehensions anticipate two possibilities: (1) a kind of inversion of the existing dominant-dominated relationship; and (2) the possibility of the explosion of internal antagonisms within Cordillera society and within Bangsa Moro.

I think these are legitimate concerns because history tells us that these are indeed concrete possibilities. But it is good that this is discussed because in due time, we will be able to accept amendments towards the end of arriving at some provisions that seek to manage, as it were, the level of conflict. At the same time, we wish to point out that since we argued for regional autonomy in the name of peace, we cannot reduce social conflict to zero. What we can do — this is what we hope to receive in due time during the period of amendments — is to provide the mechanisms to reduce the possibility of conflict to manageable levels.

MR. COLAYCO: I am glad to hear that. One last question, Madam President.

THE PRESIDENT: The Gentleman may proceed.

MR. COLAYCO: The Article gives each autonomous government the right or the power to create its own sources of revenue and to levy taxes, et cetera. Under present jurisprudential doctrine, there are certain areas where local governments cannot impose taxes.

Are we to understand that this will give them a free hand?

MR. NOLLEDO: Yes. However, there should be guidelines that may reproduce some limitations that are now existing in P.D. No. 231, as amended by P.D. No. 426, which is the Local Tax Code.

The taxes that cannot be levied by local governments are enumerated in Section 15. The governors and the city mayors in a dialogue told me that the right to levy taxes on the part of local governments is practically negated by

many limitations.

So, I would like Congress to fix only certain guidelines; I do not like the word "limitations," subject, of course, to the approval of this Commission.

Thank you for that question.

MR. COLAYCO: I thank the Commissioner, Madam President.

THE PRESIDENT: Who is the next speaker?

MR. RAMA: Commissioner Rosario Braid, Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Let me state, Madam President and members of the Committee, that I am supportive of the concept of local autonomy and the concept of federalism. We might, however, have to look for another term since, according to political scientists, we can never really use the concept of federalism to describe our kind of decentralization unlike Germany, the United States and Malaysia which started out as independent states. We never did, so we may have to seek another terminology.

I support autonomy because we can never attain people power in a pure form of unitary government. But towards this end, we should agree on a devolution of power towards self-management. I would like to see that these concerns are really linked with the concerns in human resource development, particularly non-formal education; the broadening of educational resources and media resources; the movement towards greater political awareness, and towards a new political culture because if we must have self-management, we should move away from the present authoritarian culture.

I, therefore, hope that the Committee support the need for this horizontal and vertical mechanisms which will develop political awareness. We, therefore, need more two-way communication between the center and the region. We regret to say, however, that in the inventory of communication and educational resources, we find that they are very heavily centralized. Those that are decentralized are not tailored to the needs of the region. Many of the existing mass media in the region are either relay, replay stations and carry news that are produced in big cities like Manila and Cebu. A priority prerequisite would be to restructure these information infrastructures as they are important resources to utilize when we would like to see a devolution of power.

We are aware that even in rural telecommunications, which are essential necessary infrastructures, we have very poor systems. In San Carlos, Negros del Norte, we have to call Cebu to be able to be connected to Dumaguete which is just two hours away by land travel. This is the state all over the country. If we have to work towards more autonomy, I think we should not forget to emphasize the need for these social services which are often left out.

Looking at the checklist of the areas to be attended to in the attainment of regional autonomy, non-formal education and information structures are often left out.

Lastly, I would like to ask the Committee what they would consider as prerequisites in the reorganization of political areas into ecological provinces. This means nullifying the old provincial divisions which were mainly based on the "gerrymandering policies" of the old elite and restructuring political divisions based on ecology and culture and managed according to what we call the physical or biological environment.

Thank you very much.

MR. NOLLEDO: Madam President, incidentally, Commissioner Rosario Braid is an author of a resolution

advocating autonomy of local governments, and I fully support her desire to increase social services in line with the statement of Commissioner Rama yesterday that regional economy is a must for economic development.

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

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Madam President.

I would like to ask some clarifications from the Committee. First of all, I would like to congratulate the Committee for a very splendid committee report which I really support. I just would like to ask some clarifications.

MR. NOLLEDO: I thank Commissioner Azcuna, a distinguished son of Mindanao.

MR. AZCUNA: Thank you.

With respect to local governments, I believe that the local government units are those mentioned in Section 1 of the Article; is that correct?

MR. NOLLEDO: Yes, Madam President.

MR. AZCUNA: And the President of the Philippines is given general supervision over all those local government units?

MR. NOLLEDO: Yes, that is correct.

MR. AZCUNA: Including the autonomous regions.

MR. NOLLEDO: The Gentleman is right.

MR. AZCUNA: However, I notice that the phrase "shall exercise general supervision over local government" is repeated in Section 4 as well as in Section 11. Would that not be a duplication since local government includes autonomous regions or is it just for emphasis?

MR. NOLLEDO: I think it is for emphasis because autonomous regions constitute some sort of special local government units. In fact, there is a move to separate autonomous regions in this Article from local governments.

MR. AZCUNA: I see. With respect to the creation of autonomous regions, is my understanding correct that the procedure is for a region to obtain a charter, otherwise called an "organic act" from Congress?

MR. NOLLEDO: Yes, that is correct.

MR. AZCUNA: With respect to two particular proposed autonomous regions, the Cordilleras and Mindanao, the committee report mandates Congress to create such regions by giving them organic acts within one year from the election of the Members of Congress, is that correct?

MR. NOLLEDO: Yes, Madam President, because we expect the people from the Cordilleras and the people from Mindanao to immediately ask Congress to grant them regional autonomy.

MR. AZCUNA: In short, at least with respect to the proposed autonomous regions of the Cordilleras and Mindanao, there is already a finding that they would like to become autonomous regions; but there is no need for them to petition Congress for an organic act.

MR. NOLLEDO: Yes, the Gentleman is right.

MR. AZCUNA: However, as mentioned yesterday by the honorable Chairman of the Committee, the completion of the creation of the autonomous regions of the Cordilleras and Mindanao would still need approval by way of a plebiscite of all the local units directly involved; is that correct?

MR. NOLLEDO: Yes, Madam President.

MR. AZCUNA: With respect to this provision on the definition of the "territorial jurisdiction" of the autonomous regions of Mindanao and the Cordilleras mentioned in Section 16 to be done in not more than six months after the organization thereof, does that mean that the autonomous regions will be organized first and then their territorial jurisdiction defined later, or is that with reference to Congress?

MR. NOLLEDO: I would like Commissioner Alonto to answer that question, considering that he is the author of this provision.

MR. AZCUNA: Thank you.

MR. ALONTO: Thank you.

In Section 10, there is a period of consultation between Congress and the elective officials of the provinces and cities within the region; meaning, one of the implications of this is that those within the region who do not desire to be included within the region in this consultation, be excluded from the autonomous region. To give a specific example, Zamboanga del Norte from which this distinguished Commissioner comes from is included as of now in Region IX. Majority of the people of Zamboanga del Norte are Christians. As a matter of fact, the socioeconomic leadership is hands of the Christians.

There is a possibility that people in this area, majority of whom will turn out to be Muslims, would not like to join the autonomous region. So, in that consultation, it could be excluded from the area that is to be determined by Congress because, in accordance with Section 10 of the report, even the area is to be determined by Congress. The area to be determined by Congress is to be asked later on, after the organic act is passed by Congress for a plebiscite, whether they will accept that organic act or not.

Those are steps which will guarantee that any autonomous region could not exercise discrimination against any of these members or inhabitants of the region based on the ideological beliefs. So, I think that has been expressed in Section 10.

MR. AZCUNA: I thank the Commissioner.

One final question. With respect to the powers given to an autonomous region in Section 12, will these powers be uniform for all autonomous regions so that there will at least be some common elements in autonomous regions?

MR. ALONTO: That is correct.

MR. AZCUNA: This is the purpose so as not to have diverse power structures in autonomous regions while allowing for flexibility in subsection 10 thereof.

For instance, under preservation of customs and traditions, and the cultures of the indigenous communities of the autonomous regions, suppose one of their customs is to prohibit the liberty of abode or of changing the same and, therefore, it would conflict with the Bill of Rights, which one would prevail? Would a member of a tribal community who seeks to change his abode against a custom compel the courts to allow him to change his abode?

MR. ALONTO: The Bill of Rights is general to all.

MR. AZCUNA: Yes, so it will prevail over customs.

MR. ALONTO: That is a fundamental of law.

MR. AZCUNA: I thank the Gentleman.

Thank you, Madam President.

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

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Thank you, Madam President.

Will the Committee yield to a few questions?

MR. NOLLEDO: Gladly.

MR. MONSOD: Yesterday, the Chairman of the Committee enumerated the advantages of decentralization and the creation of autonomous units and addressed quite convincingly the problems attendant to a unitary form of government. I did not hear the Gentleman mention any disadvantages. Just for the record, are there any disadvantages to the creation of an autonomous unit? Would there be any?

MR. NOLLEDO: As far as we are concerned, if there should be disadvantages, they are insignificant in the light of the Philippine conditions. So, we emphasized the advantages. Perhaps, the disadvantages would be on funding and adjustments. That is the reason we are merely opening the avenue towards federalization, but I do not exactly mean federal government like that in the United States. I mean autonomous regions like in Switzerland, Federation of Malaysia, Indonesia, etc. That is why when we say that one-half may be federalized and the other half may not be federalized, then I think that is normal. It is not exactly anomalous because that stage will always be reached if the aim at full autonomy is carried gradually. That is the desire of the Committee because really we do not have the necessary funding and, perhaps, expertise; we need some more experience. We mentioned the Cordilleras and Muslim Mindanao merely as models. Later on, Congress may decide to create autonomous regions in other parts of the country should these models prove to be successful.

MR. MONSOD: I am quite convinced of the sponsor's arguments that autonomy has much more, if not all, the advantages and, therefore, it seems to me that all the areas in the Philippines will want the kind of autonomy that the Committee seems to think should be appropriate for the Cordillera and certain parts of Mindanao. My question is, if indeed one of the disadvantages is the sharing of the costs or the question of funds and all the regions become autonomous, then we are not only talking about a relationship between an autonomous region and the national government; we are also talking about relationships between or among autonomous regions.

Yesterday, one member of the Committee — I believe it was Commissioner Ople — mentioned that one of the benefits that can be accorded to an autonomous region is, for example, a rebate on power costs for areas that have a natural resource in waterfalls. Does the Gentleman envisage a situation as well? Let us say that the Tagalog region of Southern Luzon and Metro Manila decide to form themselves into a region and decide to impose countervailing duties on the products of the Cordilleras that move to the ports and international airport of Manila, which would compensate or offset the higher cost of power of the Manila residents, would that be an acceptable relationship among autonomous regions?

MR. NOLLEDO: In Section 12 of the second part of the report, which is Committee Report No. 25, when we authorized the autonomous region to adopt regional taxation, I think it would be the duty of Congress to study the fiscal effects of provisions on taxation as contemplated by the Gentleman's question. To my mind, that might impede the smooth flow of commerce. If I were a Member of that Congress, I would recommend that such imposition of countervailing duty be discouraged and this case can be the subject of the guidelines that may be set

forth by the Congress in authorizing regional taxation to the regional government. Such a matter can be considered by the Congress in the grant of the organic act to the particular autonomous region.

MR. MONSOD: But it is possible when the entire country is divided into autonomous regions that there will be countervailing levies and duties with this autonomous region invoking its natural advantages of port or water or mineral or forest resources.

MR. NOLLEDO: That is possible, Madam President.

MR. MONSOD: My next question is the question of reversibility. In this section, the Committee talks about autonomous regions being created after a plebiscite with the people. As economic development continues, there will be greater mobility of people. There will be people moving in and out of regions, migrating and emigrating into regions. And it is possible over time, for example, that, say, the Cordillera region will have an inflow of people from other parts of the Philippines such that the majority may no longer be the cultural or the indigenous minorities in that area. Is the autonomy of a region reversible? Can they then vote that they do not want anymore to be an autonomous region if the pattern or the profile of the voting population changes over time?

MR. NOLLEDO: Under the statement that I gave yesterday that the charter is an ordinary legislation, that is possible, Madam President. That can happen but it may happen after several years, perhaps even 100 years, from the time the organic act is granted to the autonomous region.

MR. MONSOD: In the case of, say, our brothers in Mindanao, for example, yesterday Commissioner Davide asked questions about the right of a city within a region to secede. And if I remember correctly, the Gentleman's answer was that in his opinion it should be a vote of the entire region. Who determines the regional boundaries? Are those the present regional boundaries now in, say, Regions IX and XII, or are those still to be determined by Congress and to find out which?

MR. NOLLEDO: They should be determined by Congress.

MR. MONSOD: So, that is a precondition for Section 16 with respect to the formulation or the enactment of an organic law.

MR. NOLLEDO: The Gentleman is right.

MR. MONSOD: My question is within that area now of the autonomous region. There seems to be an implicit assumption — and correct me if I am wrong, I think Commissioner Alonto already answered it partly this morning — that the government of the region will be for our cultural Muslim brothers in that area. Suppose under a principle of universal and equal suffrage, the elective office of the government of the area is won by Christians. This is also possible, is it not?

MR. NOLLEDO: Yes, that is possible.

MR. MONSOD: And in that instance, would regions then abide to the customary law of our Muslim brothers or would the civil laws supposed to apply side by side and which would be the predominant customary or civil law in that area?

MR. NOLLEDO: That is a very good question. The personal laws of the Muslims should particularly apply to them. The Christians will not be bound. They will be bound by the new Civil Code. Incidentally, we still have Presidential Decree No. 1083 ordaining and recognizing a code of personal Muslim laws.

MR. MONSOD: In other words, the principle of universal and equal suffrage will be applicable within the autonomous area. There will be no reserve seat system to protect the rights of the cultural minorities. Is that

correct?

MR. NOLLEDO: In our report, there is no such kind of system although two or three Commissioners have told me that they are going to present the necessary amendment to see to it that there will be some sort of equal representation between Christians and Muslims.

MR. MONSOD: So in Section 2 of the Article, when we talk about sectoral representatives — I believe this was raised by Commissioner Quesada yesterday — this is interpreted to be within the context of the sectoral representatives in our Article on the Legislative or does this go beyond that to include other minorities or religious within the autonomous area?

MR. NOLLEDO: Commissioner Bennagen would like to answer that question, Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

We did say yesterday that we cannot go by the national categories of sectors because we will have to take a look into the existing social differentiation in the region, although I understand that there is a propose amendment coming from one of our colleagues regarding this aspect of representation.

MR. MONSOD: My final question is: Yesterday during the interpellation of Commissioner Suarez, I believe there was a question regarding the need for a plebiscite in all cases and — please correct me if I wrong — if I remember, the answer of Commissioner Bennagen was that there would be a plebiscite. But it seems to me the answer was that the plebiscite would only be for purposes of determining the boundaries rather than asking people if they want to be part of the region. I do not know if I got that correctly or incorrectly, Madam President.

MR. BENNAGEN: The answer was a plebiscite with respect to the organic act or charter or whatever it is to be called, but at least in relation to the two regions that are mentioned, not in terms of whether we should enshrine it in the Constitution or not.

MR. MONSOD: But can I just ask if, with respect even to the two regions named in Section 16, the precondition of a plebiscite must be complied with on whether they want to be part of the autonomous region or not?

MR. BENNAGEN: Is that the understanding of the Committee?

MB. ALONTO: With the permission of the Chairman, Section 16 refers to everything that is fundamental in the organization of the autonomous region and the population should be consulted on any phase of the autonomous region. And, as I said, in answer to Commissioner Azcuna, those who do not want to get into the autonomous region have every right to do so; that is a personal right, and I think that should be the case in organizing and restructuring the different governmental units that constitute the Filipino nation.

MR. MONSOD: Madam President, I am asking the question because there seems to be some inconsistencies between the answer of the Chairman yesterday when he said that it should be the vote of the entire region. For example, in the case of Iligan City in Region XII, suppose the residents of Iligan City decided that they do not want to be a part of the autonomous region and, for that matter, we may have municipalities, what would happen to those municipalities? Would they be allowed to secede or, as the Gentleman said, would their sentiments of not wanting to be a part of the autonomous region be respected?

MR. NOLLEDO: I would like to clarify that. It is really true that I said it should be the entire electorate's will that should be considered because I was not binding the Committee. It was my personal opinion, but I believe that there is really a need for an amendment to make that question clearer. That is why when that was asked of me by

Commissioner Bernas, I said that, to my mind, there should be an amendment to make it specific. We welcome such an amendment.

MR. MONSOD: But an amendment to the effect that the total vote of the region should be . . .

MR. NOLLEDO: No, no, not to that effect because I emphasized that it could be interpreted that way without binding the Committee and that is why I said that we are receptive to an amendment to make it clearer; that if a particular local government unit does not decide to join the region, I think the will of the people in that unit should be respected.

MR. MONSOD: Yes, Madam President.

MR. ALONTO: Besides that, one must have noticed that when this autonomous region is to be established, Congress is to have a consultation with the elective officers within the area that is supposed to be constituted within the autonomous region. And in this consultation — for example, if Iligan City would not like to join — the people would be able to express their ideas and their wishes, and so Congress, in delimiting the territory of the autonomous region, would exclude Iligan City.

MR. MONSOD: I do not want to belabor the point, but in designing the organic law, there would already be preconsultations to find out which people want to be part of the region, and after the organic law, there will now be a general plebiscite to be approved by those people who said that they are willing to be inside. But I guess my problem is that I do not know if there is an exact correspondence between the opinions of the officials and the people in the region. And, therefore, it is possible that in the initial design they would be included, but the city that is included in the final organic law may, by vote, say that it is not included. Now, what happens to them?

I think that is my problem in understanding the process, Madam President, but maybe this can be solved.

MR. NOLLEDO: Yes, if in the final vote they did not express their desire to be included.

MR. MONSOD: Yes.

MR. NOLLEDO: In which case, their will must be respected.

MR. MONSOD: And within that now predetermined area, on the basis of consultations, will it be decided on the basis of majority votes for the entire area or of province or cities within those areas?

MR. ALONTO: The majority vote in the different units will be included.

MR. MONSOD: I see.

One final question. In the case of the Cordilleras, do I get the answer of Commissioner Bennagen that there will be a plebiscite as well as a precondition for the setting up of an autonomous region?

MR. BENNAGEN: As a precondition for membership in the autonomous region.

MR. MONSOD: As a precondition for membership?

MR. BENNAGEN: Yes, and for defining the extent of the autonomous region.

MR. MONSOD: Thank you.

MR. RAMA: Madam President.

MR. NOLLEDO: Madam President, excuse me, before the Floor Leader calls the next interpellator, I would like to clarify my answer to the question of the Gentleman about countervailing duty, because his question was

premised on the existence of autonomous regions all over the country, assuming that the entire country has autonomous regions.

So, I would like to call his attention to Section 13 of Committee Report No. 25 which says:

Without prejudice to the above provisions, and except in areas of legislation exclusively belonging to the national government such as foreign relations, the national defense, customs, tariff . . .

These things should pertain not to the autonomous region but to the national government. Therefore, in that case, the countervailing levy which can be classified as an additional customs duty under the present Tariff and Customs Code can be limited by the national government because that function really pertains to the national government.

MR. MONSOD: With the Chair's indulgence, may I just make one more point.

I was just wondering, while reading through the entire section, why there was no provision for regional development or regional councils even if they are not autonomous governments. It seems that the structure of the entire Article is unitary in form with some local government rights.

And then going to the other mode — I do not want to say extreme — which is autonomous regions — I do not know if I missed it in the Article — I did not see the principles of decentralization enunciated, the regional, provincial, municipal, city levels that would give effect to a decentralization system other than an autonomous region.

MR. NOLLEDO: Because we expect Congress to define the government structure in each political unit and we are giving Congress a leeway to so organize the local government units.

MR. MONSOD: So, we are not limited to unitary versus an autonomous?

MR. NOLLEDO: However, we will welcome amendments in that regard.

MR. MONSOD: Thank you.

MR. NOLLEDO: Thank you.

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

THE PRESIDENT: Before we do so, may I just acknowledge the presence of students from St. Scholastica's College and also a delegation from the Cordillera region who are here with us this morning.

Commissioner Natividad is recognized.

MR. NATIVIDAD: Madam President, will the Gentleman of the Committee yield to a few questions?

MR. NOLLEDO: Gladly.

MR. NATIVIDAD: The history of local governments shows that the usual weaknesses of local governments are: 1) fiscal inability to support itself; 2) lack of sufficient authority to carry out its duties; and 3) lack of authority to appoint key officials.

Under this Article, are these three traditional weaknesses of local governments addressed to?

MR. NOLLEDO: Yes. The first question is on fiscal inability to support itself. It will be noticed that we widened the taxing powers of local governments. I explained that exhaustively yesterday unless the Gentleman wants me to explain again.

MR. NATIVIDAD: No, that is all right with me.

MR. NOLLEDO: There is a right of retention of local taxes by local governments and according to the Natividad, Ople, Maambong, de los Reyes amendment, local government units shall share in the proceeds of the exploitation of the national wealth within the area of region, etc. In relation to that, regional taxation is granted to the autonomous region.

On the second question, with respect to the lack of a governing body with sufficient authority, because of the mandate to the Congress to create a government structure in the autonomous region, I think that is partially satisfied, and we have no express and wider provision here on local authorities with respect to other government units believing that the provisions of the Local Government Code may still apply, subject to change by the future Congress.

On the third aspect, on the lack of authority to appoint, I think that is very material and corollary to the second question of lack of governing body with sufficient authority. These things are addressed to the Congress of the Philippines when they, as we expect, enact a new responsive Local Government Code.

MR. NATIVIDAD: What is the Committee's idea on how the autonomous regions are supposed to be governed? Will there be a governor? Section 10, of course, says that the organic act shall define the basic structure of government but as a matter of inquiry, what is the plan of the Committee on this?

MR. NOLLEDO: I thank the Gentleman for that question because in the original UP draft, a regional executive council, contemplating a collegial body, was put there but our Committee changed that to a regional executive department, believing that it would be better that the executive head, as much as possible, be alone, perhaps assisted by some sort of ministers. The executive head of the region will be called a regional governor.

With respect to the legislative assembly, it says here that the regional executive department will be headed by the regional governor and the regional legislative assembly shall be elective and representative of the constituent political units. We are making this a little bit broader in the sense that we are giving Congress the discretion to determine the details of the basic structure of government within the autonomous region.

MR. NATIVIDAD: This regional governor will have a term of office. He will be elected. Is that right, Madam President?

MR. NOLLEDO: Yes, Madam President.

MR. NATIVIDAD: As far as the President is concerned, he has the same supervisory powers over the autonomous region as well as the other local government units.

MR. NOLLEDO: Yes, only supervisory power and not control. Control may mean changing certain decisions of the autonomous regions or local government units. The supervision there, as defined in many cases by the Supreme Court, refers only to the duty of seeing to it that the laws of the country, including the laws of the particular region, should be faithfully executed.

MR. NATIVIDAD: The heads of the local governments have always agitated for the authority to appoint officials, such as the provincial treasurers, the district engineers and the provincial health officers. In the concept of the Article, will the autonomous region have that authority to appoint key officials?

MR. NOLLEDO: Yes, Madam President. The Gentleman can present an amendment to make that emphatic. In our discussion, that was considered. It will be noticed that in relation to Section 12 (1), administrative organization, it is the sense of the Committee that the appointing power, with respect to what the Gentleman has just said, should be given to the local public officials.

MR. NATIVIDAD: Managementwise and countrywise, would that be good for the country? This is just for my

own satisfaction.

MR. NOLLEDO: In relation to the first part of our report, I would say yes, Madam President. Of course, that is only persuasive to Congress when they enact a local government code because the Gentleman is now asking a question with respect to local government units other than the autonomous region. Am I right?

MR. NATIVIDAD: Yes.

MR. NOLLEDO: I fully agree with the Gentleman. I support that idea. And perhaps, an appropriate amendment will be favorably entertained by the Committee.

MR. NATIVIDAD: Section 13 says that except in areas of legislation exclusively belonging to the national government, they will be able to legislate. There is an enumeration here of the exceptions, such as national defense, customs, tariff, post and telecommunications. Does it mean that they can legislate with regard to police forces? National defense does not mean the police. This refers to the military.

MR. NOLLEDO: Before I answer that question, I think Section 13 should be read in relation to Sections 12 and 15.

MR. NATIVIDAD: Yes.

MR. NOLLEDO: And also in relation to Section 14.

MR. NATIVIDAD: That is why I was wondering.

MR. NOLLEDO: So, in general, the autonomous regions have the powers set forth in Section 12.

In Section 13, the powers of the national government are also stated. All powers and responsibilities not granted by this Constitution or by law to the autonomous regions are vested in the national government.

But in relation to Section 14, we said that the maintenance of peace and order within the region shall remain the responsibility of the local chief executive of each constituent unit who shall exercise supervision over local police forces within the region.

In relation to Section 12 (1), my answer to the question is yes.

MR. NATIVIDAD: If the Constitutional Commission approves a provision, especially in the Article on General Provisions, laying down the guidelines and structure of our police forces, indicating that our police forces are national in scope with specific powers given to the local executives, will this then be an exception to that Article? Is that the concept of the Committee?

MR. NOLLEDO: If the Gentleman does not mind, frankly speaking, there seems to be a conflict between their report on the Article on General Provisions and Section 14 of our report. That is why it seems to me, if the Gentleman is agreeable, that this question should be submitted to the Commission as a body in order to decide once and for all whether or not we return to the local chief executive the supervision over local police forces, because in our consultation in some areas of the Philippines, it seems to me that local police forces would like to be supervised by the mayor for an effective maintenance of peace and order. Also, with due respect to the Gentleman's report, I believe that professionalization can also exist even if we give to local chief executives the power of supervision over local police forces.

MR. NATIVIDAD: I respect the Gentleman's opinion on this, but the reality of law enforcement is this: We have 1,500 towns and about 63 cities in the whole country. Not all of these towns can afford to maintain a decent police organization. A police organization worth its salt will have to have a training academy. It has to have a crime

laboratory which is expensive. It has to have a fire department. A fire truck costs P1,600,000 now. A police department would have to be equipped with standard equipage, meaning, standard firearms and other equipment. They have to be trained on the same basic principles in the performance of their duties, and they have to be paid on time — equal pay for equal work. If we revert back to the conditions of 1965, for example, where each town or each area is responsible for the whole spectrum of law enforcement, then it would be very seldom, indeed, to find a town that can afford the basic salaries of policemen. If we throw back our memory to those days when we had 1,500 fragmented police departments, we had police patrolmen earning P20 a month and chiefs of police earning P60 a month, which is way below the minimum wage law, but the towns cannot pay more. So, the situation now is this: while we should give a maximum leeway or elbow-room to the local executives in the supervision of their police forces, they cannot avoid the help of the national government because the situation as it is today is, even with the 18 percent across-the-board contribution of the towns and cities, that only amounts to P200 million. But the budget of the Integrated National Police is P2.2 billion. So, if we remove the national government from the life of the police forces of this country, we will automatically revert to that era where they have to fend for themselves, without the fire trucks, crime laboratories and the 13 police academies that are training them today. So we in the Commission cannot close our eyes to that reality because if we remove the supervision by the President over the police forces of our country, then that P2.2 billion support for the police will have to be removed.

MR. NOLLEDO: May I ask the Gentleman a question, if he does not mind?

MR. NATIVIDAD: Yes.

MR. NOLLEDO: Who shall supervise these police forces assigned to particular localities under the committee report?

MR. NATIVIDAD: The local executive should participate in the operation. But the overall administration, such as appointment, would be retained by the national government. There must be a uniform appointment law, a uniform disciplinary machinery and a uniform training mechanism. We have 13 police academies today and one full cadet police academy that graduate students after four years of cadetship. These, I think, will all be scrapped by this Constitutional Commission if we so indicate that we are cutting the umbilical cord of the police from the President. This is a fatal blow to law enforcement in this country.

MR. NOLLEDO: We have no objection if we can reconcile the Gentleman's committee report with the provisions of our report.

MR. NATIVIDAD: Yes. The Chairman of our Committee invited representatives of the Ministry of National Defense, the general staff of the Armed Forces and the Chief of the Philippine Constabulary and they substantiated and confirmed what I am telling the body now. So that while I agree that we have to give the mayors or the governors supervision over the police forces, I would advise against cutting off the powers of the President because if the national government is cut off from the police forces, they would lose P2 billion in budgetary support. And we will revert to our old system where it is better to have no police forces than having policeman earning P20 a month. Give him the gun and give him the power to arrest and you have a danger to society, not a protector to society.

MR. DE CASTRO: Madam President.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

I am a member of the Committee and, as I said yesterday, I regret to state that I do not agree with the honorable Chairman with regard to Section 14. I agree wholeheartedly with what Commissioner Natividad has said. He knows this because he was once the Chairman of the National Police Commission. And I know it because I was once the Chairman of the National Police Commission. We are fully aware of the dangers of giving whole control and supervision of local police forces in the hands of the local chief executive. Our experience shows that the local police forces are being used by local chief executives for their own welfare, more particularly when it comes to election. Furthermore, it is our observation that they are being used as bodyguards of the mayor or his wife. Sometimes, a mayor has two wives and these wives have bodyguards even when they go to market. This is a very sad experience. I experienced it myself, Madam President, and, perhaps, Commissioner Natividad has experienced the same. That is why we are now on the same thinking when we say that there is a serious need of professionalizing the police forces because of its very delicate mission; that is, the maintenance of peace and order and the protection of the rights and properties of the 54 million Filipinos. That is why I prepared the necessary amendment to Section 14.

Thank you, Madam President.

MR. NATIVIDAD: I still have the floor, Madam President, have I not?

THE PRESIDENT: Yes, Commissioner Natividad.

MR. NOLLEDO: Madam President, Commissioner de Castro said that he does not like the mayor or the governor to have supervision over local police forces. But the Commissioner said that he is in favor of giving supervision to local chief executives.

MR. NATIVIDAD: Yes, I think we can have a happy meeting ground on this. But we cannot cut off the national government, Madam President.

MR. NOLLEDO: Yes, we will consider that seriously.

MR. NATIVIDAD: Nor can we cut off the mayors completely because they contribute 80 percent across-the-board from their budget. But the happy hunting ground must be located and from our vast experience in law enforcement, I think we can have our own formula in the Philippines.

So, let me continue, Madam President. Yesterday, I heard the Gentleman very distinctly when he said that the urbanized cities will vote for the province. Is that right?

MR. NOLLEDO: No, for purposes only of voting for provincial officials.

MR. NATIVIDAD: But how about the provincial voters? Will they vote for the urbanized city candidates and vice-versa?

MR. NOLLEDO: I do not think so. Will the Gentleman repeat his question please?

MR. NATIVIDAD: I am trying to clarify the causes of the many arguments in the local governments, and one of these is whether the urbanized cities will vote for the provincial candidates. What is the concept in this Article?

MR. NOLLEDO: We did not touch on that, but we are expecting an amendment from Commissioner Rama. He expressed his idea that there should be a provision in the Constitution that the voters of urbanized cities should be allowed to vote for elective provincial officials.

MR. NATIVIDAD: In that case, I will not pursue the point. I am sure that Commissioner Rama will satisfy the Commission. I would like to say here that I am glad that the Committee has a very favorable attitude towards a viable police organization in these areas because I do not believe in very radical approaches which might

exacerbate the disorders rather than make our peace-keeping chores better.

Thank you, Madam President.

MR. NOLLEDO: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Bengzon is recognized.

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

The Committee has completely left out the municipal and provincial governments in this Article. What happened to them, Madam President?

MR. NOLLEDO: In what sense, Madam President?

MR. BENGZON: I do not find any provision here with respect to the powers and, much less, any decentralization of powers to the provincial, cities and municipalities. Did the Committee not consider that?

MR. NOLLEDO: We did not consider that because we, as I said, opened the avenue for the formation of autonomous regions all over the country, but we are receptive to amendments.

MR. BENGZON: Following the sponsor's trend of thoughts, if, for example, in Region I we apply for autonomy and it was granted, what happens to the various provinces and municipalities? Do they remain as separate political units within the region?

MR. NOLLEDO: Yes.

MR. BENGZON: Do they have their own provincial governors and provincial board within the region?

MR. NOLLEDO: Yes, although we received a recommendation from many sectors that the provincial government should be abolished if we should establish autonomous regions, but we found that impractical.

MR. BENGZON: I see.

MR. NOLLEDO: And so, we will maintain the provincial government. In fact, in the government structure, there is a possibility because governors are also elective officials and the legislative council or legislative department of the autonomous region may consist of elective officials, like the provincial governors within the region including the city mayors. Then we will leave that for Congress to determine.

MR. BENGZON: I also heard yesterday during the interpellation of Commissioner Rodrigo and others that it is also possible that certain big provinces can also apply to become autonomous regions. Do I hear a confirmation from the sponsor that that is right?

MR. NOLLEDO: Yes. That was the question of Commissioner Davide because we mentioned that the autonomous region consists of provinces and cities, and we did not mention municipalities anymore because they are deemed included within the province. And he asked whether a big province can apply as an autonomous region.

MR. BENGZON: Yes.

MR. NOLLEDO: On the assumption that we believe in the statutory construction that the plural includes the singular, I said "yes"; that is why he said that the report is not clear and perhaps a necessary amendment may be presented later on.

MR. BENGZON: So, if Ilocos Norte, Ilocos Sur and Abra would petition to become an autonomous region, that is possible.

MR. NOLLEDO: That is possible.

MR. BENGZON: I see.

MR. NOLLEDO: They are all Ilocanos.

MR. BENGZON: And, therefore, under this Article, they could also have their own security forces.

MR. NOLLEDO: That is controversial. We put the security forces there under the command of the President and subject to regulation by the Armed Forces of the Philippines should the Commission decide to approve that provision.

MR. BENGZON: And if this happens, there is a great possibility that a gentleman from Hawaii may come back because he may petition to have Ilocos Norte, Ilocos Sur and Abra as an autonomous region and, therefore, cut up Region I, not including Benguet, maybe, and Mountain Province. That is a possibility, is it not?

MR. NOLLEDO: There is a possibility, but that possibility is remote because I think when the gentleman from Hawaii comes over he will be arrested for the many crimes that he has committed during his incumbency.

MR. BENGZON: That is assuming that those things are all taken care of.

MR. NOLLEDO: Yes, I consider that possibility. I hope it does not come into reality.

MR. BENGZON: This Article that we have here does away with the Metro Manila aggrupation of towns and cities, am I correct? In other words, the Metro Manila aggrupation of towns and cities is dissolved.

MR. NOLLEDO: As I said, the existence of Me Manila is sanctioned by Presidential Decree No. 824, the constitutionality of which was upheld in the case Lopez vs. COMELEC and Aralar vs. COMELEC. And so, based on the Article on Transitory Provisions that all presidential decrees shall exist until repealed or amended by the forthcoming Congress, then Metro Manila Commission can exist while P.D. No 824 remains; although I believe that, in my personal opinion that P.D. No. 824 is unconstitutional.

In the case of Metro Manila, may I inform the Gentleman that because we did not adopt the UP draft authorizing the existence of a metropolitan government, the Metro Manila government will have no more constitutional basis, in my opinion, without binding the Committee.

MR. BENGZON: Is it the sense of the Committee then that it is not in favor of retaining the Metro Manila aggrupation of towns and cities the way it exists now?

MR. NOLLEDO: We do not favor the retention of the Metro Manila Commission, but the aggrupation ma exist in view of our recommendation on Section 5 that local government units may group themselves, consolidate, or coordinate their efforts, services and resources for purposes commonly beneficial to them.

MR. BENGZON: May I know the rationale of the decision to abolish the Metro Manila Commission?

MR. NOLLEDO: I believe that highly urbanized cities like Caloocan, Manila and Quezon City should not necessarily form a metropolitan or supergovernment like what is existing now because of overlapping of functions. I cannot find sense in the national government giving national aid to the Metropolitan Commission and the Metropolitan Commission distributing the same to the local units constitutive of Greater Manila area. In fact, one will find out that the Metro Manila Commission is a white elephant; it is a financial burden to the national government.

MR. BENGZON: I only have four minutes to go. I can just discuss this matter with the sponsor later on because I have resolutions from a majority of the Metro Manila mayors stating otherwise.

But may I now go to another point, Madam President. I am more concerned about my region, Region 1, because it does not only comprise of Pangasinenses and Ilocanos but we also have people from the Mt. Province and Benguet.

I am made to understand that there are conflicts among the various tribes within a certain province. If we do give autonomy to certain areas, what happens to these conflicts among tribes that are part of a certain province or a region? Could Commissioner Bennagen enlighten me on that one?

MR. BENNAGEN: These conflicts have been there for centuries but the people have managed them. I do not see how the creation of an autonomous region will interfere in the management of conflicts. At the same time, we are saying that with the new structure, there is a possibility of introducing some amendments whereby effective supervision at the national level can at least mitigate some of the sources of these conflicts. And then also, I imagine that with greater decision-making powers within the region, both politically and economically, and I should add also, culturally, these sources of conflicts should be reduced, and the conflicts themselves ought to be minimized.

MR. BENGZON: I am just apprehensive that we might go to tribal rule, if we do create an autonomous region comprising of provinces which, in turn, comprise several tribes which have their own respective traditional conflicts; and since these regions are autonomous in themselves, then hell might break loose and we might just give way to further accelerated conflicts among and between the tribes.

MR. BENNAGEN: I think we have answered that earlier, both for the Cordillera and the Bangsa Moro.

MR. BENGZON: It seems to me that if we are going to approve all of these subsections from 1 to 10 of Section 10, it strikes me that we are definitely going into the direction of an absolute autonomy. Is my impression correct?

MR. NOLLEDO: Not necessarily, Madam President, because if we create an autonomous region, let it not be a cosmetic autonomy because if it is merely cosmetic, then it is not a real autonomous or independent region.

MR. BENGZON: I am not talking of cosmetics. Certainly, we are not talking of cosmetics here. We are talking of true and real autonomy.

MR. NOLLEDO: Yes.

MR. BENGZON: But what kind of autonomy is it? Is it an autonomy that would make this region completely independent? And the way this Section 12 strikes me, a lot of these provisions have urban and rural development; regional economic, social and cultural development; they have their own establishment and maintenance of schools; the regulation of tourism operation and maintenance of health.

So, just to zero in on certain specific items, what happens, for example, if there is a conflict between a custom in a particular region and the national planning, more specifically in the development and exploitation of minerals and natural resources which are located, for example, in these mountainous areas which may be classified as ancestral lands, and it is shown that the development of these resources would be better for the improvement of the country as a whole and of that region in particular? What happens if such economic development plan would conflict with customs and tribal laws and traditions? Which would give way?

MR. BENNAGEN: There are a number of possibilities here in terms of customary laws having the priority over state laws; another in terms of certain fixed provisions about sharing, like how much percentage should be left with the autonomous region and how much should go to the national region; and a third would be in terms of

more systematic consultation between the national government and the autonomous region, without necessarily fixing at any particular point in time the ratio of sharing.

MR. BENGZON: In other words, it is not the intent of the Committee to follow and uphold the customs and traditions over the national interest. There should be a dialogue and a consultation.

MR. BENNAGEN: Correct.

MR. BENGZON: In the event that this particular group of individuals insists on their own traditions and customs and, therefore, refuses to let the national government develop the mountainous mineral areas for the national interest — for example, they may not be agreeable to change — what happens now? Are we now going to think of the interest of the nation as a whole? Are we going to give priority to that, for example, the sharing of the fruits and benefits and, as much as possible, the relocation of these people and ushering them into a new way of life? But my point is: In a conflict like that, what is the intent of the Committee? Which interest should prevail?

MR. BENNAGEN: Again, as pointed out in a number of occasions, we see the absolute refusal of existing communities to yield to what we now label as the national good or common good, but in the event that it happens, we have to invoke a number of processes here. One of these would be the supervisory power of the President; another is the role of the various regional agencies in terms of villages and groups.

In any case, in the Cordillera and the Bangsa Moro, as well as the other indigenous communities, they have a body of traditions that respond to this kind of conflict. In the case of the Cordillera and other indigenous communities, there is a great deal of consensual decision-making going on. I foresee that this will have to be elaborated within the framework of the national region, on the one hand, and this autonomous region and the national government, on the other hand.

We are saying that we have the cultural basis on which we could elaborate traditional laws that would respond to new problems. We are not starting from scratch.

MR BENGZON: Yes. It does not really answer my question categorically. But I will leave it at that and, perhaps, we could develop this as we go along in the period of amendments.

There is another apprehension that I have and I would like to find out whether or not the Committee shares with me such apprehension and, if it does, what can be done about it?

I think we are all aware that there are problems in certain areas, both in Mindanao and up North. And some groups are labeled as rebels; others, as bandits or just mercenaries. And the apprehension I have is that if and when we do grant autonomy to these various regions that may apply to become autonomous, these particular groups or bands of people may just work themselves into a position where they will become the regional security force for their region. And I guess, we have read in the newspapers and I myself have received certain reports about the abuses of these people, not only military abuses but abuses of these various bands of people. If we accuse the military of theft, robbery, rape and acts of lasciviousness, I understand that such acts are also committed by these various groups of people.

So, this is precisely my apprehension. Is there any way by which we can stop these groups of people who pretend to cooperate with the government but who actually would just police their own groups? Is there any way by which these things can be checked and stopped?

MR. BENNAGEN: Let me elaborate on my earlier answer to the question of Commissioner Colayco. Essentially, the thrust of the question is the same. I said that having argued for autonomy in the name of peace, let us not have the illusion that everything will be well. The apprehension applies not only to the Cordillera, not only to the

Bangsa Moro but to the whole of the Philippine society. We should look at this social conflict as structural and historical phenomenon and could be understood best in a firmer and a more comprehensive grasp of the processes that lead to this conflict. Therefore, we cannot just think of safeguards be they legal, administrative or whatever, without going into a more comprehensive understanding of the historical and structural roots of these. My view is that we should not look at these as phenomena existing in isolation of the social conditions in the area. We hope that having responded to the social needs and the historical aspirations of the people, some of these conflicts will be resolved.

MR. BENGZON: I agree with the Commissioner on that issue.

MR. NOLLEDO: If the Commissioner will permit me, I would like to be more specific.

MR. BENGZON: Yes.

MR. NOLLEDO: The Commissioner is asking for safeguards. The Commissioner will notice the President has supervision over autonomous regions. Moreover, in consultation with Commissioners Natividad and de Castro, I think they are in agreement that the local executive should exercise supervision over local police forces within the region. Therefore, we are the region the responsibility of maintaining peace and order. However, in the event that these rebels should go against their allegiance to the Republic of the Philippines, I then cite the provision that the defense of the region shall be the responsibility of the national police or the army, specifically the army. So it is appropriate perhaps that the President, in the exercise of his supervisory authority, may send the army to maintain peace and order if the local authorities cannot maintain peace and order within the region. So we do not dismiss the idea of sending the army, as has happened in certain instances in the United States.

MR. BENGZON: In other words, the Commissioner is in favor of the principle that we do not cut the umbilical cord nor do we cut the leash.

MR. NOLLEDO: That is correct.

MR. BENGZON: So, there should still be some of control insofar as the national government is concerned. We should use "control" not just "supervisory in order to be able to insure that such apprehensions we have will not happen.

MR. NOLLEDO: That to my mind is an appropriate statement.

MR. BENGZON: Thank you.

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

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Thank you, Madam President.

When there was a discussion on the Lopez decision on the Metropolitan Manila Commission, I was about to insert some information regarding the latest decision of the honorable Supreme Court in the North Negros case, Patricio Tan, et. al., vs. Commission on Elections, GR No. 73155, which was mentioned yesterday by Commissioner Bernas in some of his interpellations. The impression of the honorable Chairman is that the Supreme Court has upheld the validity of the Metropolitan Manila Commission. That is correct, but that majority rule I think has been overruled by the North Negros case. In that decision, mention was made of the case of Paredes vs. Executive Secretary, 128 SCRA VI. It was the creation of a new municipality from existing barangays. The court upheld the legality of the plebiscite which was participated in exclusively by the people of the barangays that would constitute the new municipality. There was a strong dissenting opinion by Justice Vicente Abad Santos. And in

the case of *Lopez vs. COMELEC*, there was again a strong dissenting opinion especially by Justice Vicente Abad Santos. And in the *North Negros* decision, the Supreme Court followed the dissenting opinion in those two cases. May I be allowed to quote just one paragraph of this very lengthy *Lopez* decision, of which case I appeared as *amicus curiae* for the petitioner. It says:

The dissenting opinion of Justice Vicente Abad Santos is the forerunner of the ruling which we now consider applicable to the case at bar. This dissent was reiterated by Justice Abad Santos. It was assailed as suffering from a constitutional infirmity — a referendum which did not include all the people of Bulacan and Rizal when such referendum was intended to ascertain if the people of said provinces were willing to give up some of their towns to Metropolitan Manila. His dissenting opinion served as a useful guideline in the instant case.

So, the ruling now is: In every plebiscite where you cut off some municipalities to form a province, like North Negros, or even any other substantial change in the political unit, the votes in a plebiscite must cover not only the area affected, but also the entire province of Negros Occidental, because that dismemberment or exclusion will not only affect North Negros but will also affect the entire province of Negros Occidental.

Now I would like to ask a few questions.

MR. NOLLEDO: Before asking questions, I hope the Vice-President will permit me to comment on his statement that the *Negros* case overruled the *Lopez* case because the dissenting opinion in the *Lopez* case was adopted by the Supreme Court in that *Negros* case.

There is a question on the effect of this overruling of the *Lopez* case upon the validity of P.D. No. 824. To my mind, the constitutionality of P.D. No. 824 based on the law of the case doctrine in remedial law will still prevail. Secondly, we will also notice that in that decision, the Supreme Court did not rely upon the principle of whether or not there was compliance with the plebiscite requirement. The Supreme Court ruled that in view of the 1984 Amendments to the 1973 Constitution which defined the different legislative districts in the Philippines, the Batasang Pambansa, sitting as a constituent assembly, recognized the Metropolitan Manila area as comprising the National Capital Region with a constituent composition. So the basis of the decision is not only compliance with the requirements on plebiscite. The legal reason was that the existence of the geopolitical units known as Metro Manila was recognized by the people when they ratified the ordinance appended to the Constitution which ordinance defined the National Capital Region.

Thank you.

MR. PADILLA: The decision, of course, did not mention particularly the Metro Manila Commission but it said very clearly:

Batas Pambansa Blg. 885 (that is the law creating North Negros) is hereby declared unconstitutional. The plebiscite of the new Province of Negros del Norte, as well as the appointment of the officials thereof, is also declared null and void.

That is the dispositive portion of the decision. Naturally, said decision could not declare the other P.D. or the other Batas unconstitutional because it was not the issue, but the body of the decision made reference to the *Lopez* decision and followed the rule stated in the opinion of the dissent.

MR. NOLLEDO: Thank you.

THE PRESIDENT: Is that all?

MR. PADILLA: No, some few questions more, Madam President.

We are in favor of local autonomy to local governments. In fact, the rule is that the central government or the

President only exercises general supervision, and the principal reason is to have all the laws faithfully executed as part of the President's oath of office. And, of course, those laws are national laws, not municipal ordinances.

When we say autonomy, that is not very clear, because even the Tripoli Agreement which mentions autonomy does not define what autonomy is. I suppose it means merely the decentralization of governmental powers in favor of the local units.

I tried to find a judicial decision on autonomy, and I found in the case of *Villegas vs. Subido*, 37 SCRA 1, that local autonomy refers, more or less, to purely local matters, to lend force, of course, to the legislative moves enlarging the powers of our local authorities. Decentralization of government authority practically means the same thing as local autonomy.

I have been hearing the terms "self-determination," "self-government," and "self-rule." In the opinion of the Committee, is local autonomy the same or similar to the right of the local governments to self-determination or self-rule or self-government? I think we have to be careful that we do not identify local autonomy in local government with those other terms I mentioned.

MR. NOLLEDO: We have never used the term "self-rule." The Commissioner must have read that in the papers. I think when we talk of local autonomy, we are talking of effective decentralization, a division of powers. That is why the Gentleman has to understand our report in the light of the provision that the President retains supervisory authority over local governments, and that autonomous regions shall be established within the framework of the national sovereignty and respect for the territorial integrity of the Republic of the Philippines. Then in the light of those provisions, the Gentleman will understand what we mean by "local autonomy."

MR. PADILLA: I am glad to hear that local autonomy under the Tripoli Agreement recognizes very explicitly "within the sovereignty and territorial integrity of the Republic of the Philippines." But I have heard especially from Commissioner Bennagen "self-determination."

MR. BENNAGEN: Yes.

MR. PADILLA: Of course, states or nations have the right to self-determination. But I do not believe that portions of a nation, like the Philippines, would have that right to self-determination. We may have fragmentation.

MR. NOLLEDO: Before Commissioner Bennagen replies, we know we are lawyers and we know that "self-determination," as used by a well-known, respected anthropologist, does not have the meaning in the legal way that we see it.

MR. BENNAGEN: No.

MR. NOLLEDO: Yes.

MR. BENNAGEN: If the Commissioner would allow me one whole day, I will discuss the relationship between the legal concept of self-determination and its human right version as it has developed in recent years, but we do not have the luxury of time. However, I already outlined yesterday the main thrust of self-determination as applied to indigenous peoples. I discussed it in its historical context as well as political, economic and cultural content. I premised that on the framework of national unity as well as within the framework of the whole history of the struggles of the Bangsa Moro and the people of the Cordillera. I even mentioned that historically, the colonial governments always treated these groups as collectivities, not as individuals, the way that lowland Christians were treated. This is why we have had several government agencies and bureaus that addressed themselves singly to these cultural minorities or the taxonomic variations through the centuries. They were treated as non-Christian tribes. They were treated as infieles. Even up to now, they are treated as distinctive groups, as

collectivities, not as individuals. We should take the Office of Muslim Affairs and Cultural Communities which has two bureaus — one for Muslim affairs and another for cultural communities. In other words, even the national government recognizes their distinctive characteristics. When we speak of the right of these people to choose their own path of development, we mean in terms of their right to determine the political, cultural, and economic content of this developmental path but within the framework of the territorial integrity of the Philippine Republic. I think that is what we said the last time.

But I can draw the Commissioner's attention to an increasing literature worldwide which treats of this phenomenon in Canada, in the United States, in European countries and all over. Increasingly, international organizations are supporting this right to self-determination of indigenous peoples. It is not an altogether new phenomenon except perhaps to the populations who have been alienated from indigenous cultures that are still extremely viable.

THE PRESIDENT: Will the Gentleman excuse the Chair. If this takes long, we might faint.

MR. BENNAGEN: That is what I said earlier.

THE PRESIDENT: Then can we continue this after lunch because we also have a very important caucus?

MR. BENNAGEN: If that is the pleasure of the President, I thank the Chair.

SUSPENSION OF SESSION

THE PRESIDENT: The Commissioners will please attend the close-door caucus during lunch time at the Southwing Conference Rooms A and B.

We shall continue this matter after lunch.

The session is suspended until two-thirty this afternoon.

It was 12:29 p.m.

RESUMPTION OF SESSION

At 2:58 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Madam President, we will continue the consideration of the Article on Local Governments.

THE PRESIDENT: Would the honorable Chairman, Commissioner Nollado, and the members of the Committee please occupy the front table?

MR. RAMA: Madam President, I ask that Vice-President Padilla be recognized.

THE PRESIDENT: Vice-President Padilla is recognized.

At this juncture, the President relinquished the Chair to the Honorable Francisco A. Rodrigo.

MR. PADILLA: Thank you.

I have heard in previous discussions that some people have been blaming the unitary system even as it existed during colonial Spain and so forth. Does the criticism on unitary system mean that we do not want a strong

centralized government?

MR. NOLLEDO: Yes, because we believe that political power must be shared with the autonomous regions. It is a sort of shared responsibility. That is why in the handouts given to us only this afternoon, it is stated that decentralization heightens the access of the people to decision or policy-making process.

We will notice that even our government has decided to regionalize all its agencies and offices. The Ministry of Education, Culture and Sports, the Central Bank, and even the Ministry of Trade and Industry are all regionalized. They have what is known as the regional development council at several levels of the local government. And so, the national government believes that political power must be dispersed in order to attain economic and social development. I believe that the unitary system — I repeat it as many times as I could — has been a failure in the Republic of the Philippines.

MR. PADILLA: There are regional offices of the national departments or ministries. But it does not mean that we must have a weak central government consistent with local autonomy. We may increase local autonomy but it should not diminish the strength of the central government, especially if we stress the unity of the entire country. For example, we have a national economic development program. That must encompass the whole nation and all our people. We cannot be stressing one region as having a preference over other regions. Does not the Commissioner believe that what we need is more local government autonomy but within a strong, united central government?

MR. NOLLEDO: I have to qualify, if the Vice-President does not mind, that we have to strengthen the local governments within the framework of national sovereignty without necessarily weakening the supervisory power of the President over local governments because ultimately, if all these regions succeed, the President's powers will be fully respected but within the framework also of authority to set up autonomous regions. We will notice that in Section 12, the second part of our report, autonomous regions have authority over the following: regional, economic, social and cultural development subject, as to economic development, to policies laid down by the National Economic and Development Authority.

In other words, certain standards set forth by the national government may constitute the guidelines to economic, social and cultural development programs of regional governments.

MR. PADILLA: When we say regional, we really mean the political units of barrios, municipalities, cities and provinces. But Section 1 of Committee Report No. 21 makes reference to provinces, cities, municipalities, barrios and then they added "and the autonomous regions." But we cannot have an autonomous region as yet in accordance with the committee report unless there be: First, a well-defined territory; and second, a plebiscite by all the people comprising that supposed region to petition and approve an autonomous region.

Why are we taking for granted and assuming that we will have all these autonomous regions? The danger, as already explained by various Commissioners, is that we may have too many autonomous regions beginning with the Ilocano region. And this may impair the unity and solidarity of the nation under one central government by stressing too much autonomous regions.

We agree to grant autonomy to local governments. The 1935 Constitution had no provision on local governments while the 1973 Constitution provided that the National Assembly shall enact a Local Government Code, and that was realized through Batas Pambansa Blg. 337. Why do we not just say that Congress will strengthen this Local Government Code to grant additional powers within the concept of local autonomy?

MR. NOLLEDO: I am very sorry but our Committee has decided to set up autonomous regions. When we defined the political units constituting local governments, we included autonomous regions as one of them in anticipation

of the fulfillment of the mandate that there should be autonomous regions in Muslim Mindanao and the Cordilleras. I am very sorry, but I beg to disagree with the Commissioner. That is why we are going to submit this question to the body for consideration. I do not believe that there will be disunity if we set up autonomous regions. The examples of Switzerland, Malaysia and other countries, including the United States where there is a federal system, show that autonomy does not sow disunity.

MR. PADILLA: The Commissioner mentioned Malaysia. My understanding of Malaysia is that there are five or six sultanates there with their respective chieftains who are called sultans, datu or chiefs. The sultans rotate among themselves within five years or so the rank or category of king or perhaps ceremonial president, but the power in Malaysia does not rest on those sultans. The power is vested in a national assembly and on a prime minister. I do not think the parity between the conditions of the Philippines and Malaysia is obtainable or present equally. Sometimes others talk of Spain but it is well known that the people of the southern part of Spain, the Vascos, are separatists, and they have been accused of many plots against the government of Madrid. We should be avoiding autonomous regions here and there based on incidental differences, for other regions may also demand their autonomy and the result may be sacrificing the unity and solidarity of the entire nation.

MR. NOLLEDO: Before Commissioner Ople answers the Vice-President, I would like to mention here that there are state legislatures in Malaysia's 13 states. Each state has its own constitution, legislative assembly and an executive council headed by a chief minister responsible to the legislative assembly. There are some states with hereditary rulers. That is what my note say.

Mr. Presiding Officer, I request that Commissioner Ople be recognized.

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

The particular relevance of Malaysia to the issue at hand has to do with Sabah and Sarawak. Malaysia is a federal state. In 1963, Sabah and Sarawak joined the New Federation of Malaysia. But what is distinctive about Sabah and Sarawak relative to the preexisting states of the Malaysian Federation is the fact that both of them reserved their sovereignty on labor, immigration and education. So, with respect to these spheres, the federal government has theoretically no involvement in Sabah and Sarawak, and I think in this respect we might say that although they are regularly constituted as states of the Malaysian Federation, Sabah and Sarawak are more autonomous states than the other states which were earlier associated with that federation.

I think in the case of China, this is more illuminating. It has a unitary state unlike Malaysia which is federal, but it has vested autonomous status in Chingkiang and Tibet. And in most ways, Hongkong is the latest of these autonomous regions when the treaty with the United Kingdom over Hongkong takes effect in 1997, under the motto "One country, two systems," because China is communist and Hongkong is capitalist. Both do not disturb the autonomy of Hongkong with respect to the choice of an economic and social system until 50 years from 1997, in accordance with that treaty itself.

In the case of Spain, there is a good warning to the Filipino people. The chronic unrest in the Basque region is a consequence of the denial of autonomy to the Basque nation which is, in most ways, really different from the Castilian Spanish. So I thought I would contribute this input on behalf of the Committee.

MR. PADILLA: The Vascos in Spain who are in the southern part have a racial community with some portions of northern France. They are given autonomy, but the problem there is that they consider themselves as entitled to be a separate state. In other words, they are in a way separatists, together with some Basques in Northern Europe. So we should not consider that situation because in the Philippines, we are all for one united nation, one flag, one people, without many distinctions as to temporary or incidental differences in the different islands or regions of

the country.

Section 4 (2) of Article XI of the 1973 Constitution, which is reproduced in Section 5 of this Article on Local Governments, reads:

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

Does not the Committee believe that the different political units beginning with provinces and cities can avail of this provision in the 1973 Constitution and repeated in the committee report for a combination, we might say, among different provinces in the same part of the country, which may amount to what we now call or commonly consider autonomous regions? For example, Commissioner Abubakar says that autonomy in Region IX is working well under the Tripoli Agreement. There is a legislative council and an executive council in Zamboanga City. But these really are only aggrupations of a few provinces. The fact is that in every province we have a governor and a provincial board or a sangguniang panlalawigan. If the legislative council will just be a combination of provincial boards or the governors thereof will become members of the executive council, that could be accomplished within the purview of the Local Government Code and this provision of the Constitution. In the same way, the legislative assembly may just be a larger assembly over the municipal and provincial legislative bodies. Does not the Commissioner believe that this could be well implemented within the purview of Section 5?

MR. NOLLEDO: That is possible. I call that a "cosmetic autonomy." And besides, Section 5 of the first part of our committee report contemplates only a temporary aggrupation and the situation covers only essential services. So the function there is merely for purposes of coordination. The situation is essentially different and apart from the autonomous region.

MR. PADILLA: Its efforts, services and resources are for purposes commonly beneficial to them. So that can cover the concept of an expanded autonomy but within the local units, particularly the provinces.

MR. NOLLEDO: Commissioner Alonto would like to answer some more.

MR. ALONTO: Thank you, Mr. Chairman, and Mr. Presiding Officer.

I would like to make a little comment on the remarks of the distinguished Vice-President of the Constitutional Commission.

In the first place, let us take into account that this appearance of autonomous regions in the report of the Committee is merely a restatement of something that was accomplished by this country through the Tripoli Agreement which was entered into by and between the regime of President Marcos and the Moro National Liberation Front. This was in response to the oppression and tyranny that the Muslims in this country had experienced, forcing them to go to the mountains to oppose that regime of President Marcos during martial law years. In order to eliminate that particular problem, the deposed President Marcos, through the help of the government of Libya, tried to negotiate with the Moro National Liberation Front which, at that time, was mistaken for being a secessionist group. This negotiation resulted in the establishment of autonomous regions in Mindanao, a unilateral decision which did not undergo the consideration of the finer details of that negotiation. Therefore, as far as the existence of these autonomous regions is concerned, they are existing de facto. So the term "autonomous regions" as embodied in this committee report is merely a recognition of a de facto existence of autonomous regions in this country. But as the Chairman of the Committee has said, this is merely a "cosmetic autonomy" because the deposed President Marcos never really intended to put up here a real and genuine autonomous region. His purpose was to deceive the whole Filipino people, particularly the Muslims.

In this case, the establishment of autonomous regions is not for the purpose of destroying unity among the Filipino people but to strengthen that unity as one people having one country, one government and one flag.

MR. PADILLA: I am glad to hear that. But does not the Commissioner believe that the efforts should be more towards representation of, say, our Muslim brothers, especially in national offices so that they can be heard and represented, with the ultimate goal of faster integration? And probably, through more educational facilities and interrelations, say, mixed marriages, there will be more representation and more integration.

Would that not be a solution to whatever alleged discrimination or other sins may be against some sectors which are attributed to the system? Why do we not go into this unified central government, with local autonomy, and with some representation, say, from our Muslim brothers or our Cordillera brothers, so that their voices can be heard and their interest protected and promoted not only within their local communities and their "autonomous regions," but also in the higher levels of national authority?

MR. NOLLEDO: May I answer that question?

History has proven that the intention to integrate these members of the indigenous communities within the stream of national life has miserably failed. (Applause)

Is it impossible for us to integrate the Muslims? The move to integrate the Muslims began during the Spanish regime.

THE PRESIDING OFFICER (Mr. Rodrigo): Just a minute, please, the audience is requested not to make any show of approval or disapproval.

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

MR. PADILLA: Let us not talk anymore of the Spanish regime. That was centuries ago. We are now considering a new Republic which has toppled 20 years of dictatorial regime.

MR. NOLLEDO: The question of assimilation began during the Spanish regime; then it continued during the American regime. There was an attempt by Quezon to assimilate the Muslims; it was attempted by many past Presidents, and yet these minorities resisted. I do not consider assimilation a possibility at all. We have to respect our Constitution of 1973; it contains a provision that we have to respect the customs and traditions of the indigenous communities. Likewise, several provisions now appear in the 1986 Constitution to the same effect. This nation will ever be divided and secession movements may continue if we do not recognize the right of indigenous communities to maintain their customs and traditions. It is high time that we get ourselves out of that maverick shell of conservatism and obsolescence. I am sorry to say that, but it really comes from my heart. (Applause)

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair would like to call the attention of the audience to please refrain from any demonstration of approval or disapproval.

MR. PADILLA: One last question. Will the Commissioner agree to delete under Section 14 the phrase "may establish its own special forces"?

MR. NOLLEDO: I will submit it to the floor. The Committee will insist on its recommendation. I am sorry because we have met objections thereto by setting forth several limitations on the establishment of special forces.

MR. PADILLA: Thank you.

MR. NOLLEDO: Thank you.

MR. RAMA: Mr. Presiding Officer.

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

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

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

BISHOP BACANI: Will the Chairman of the Committee yield to my questions?

MR. NOLLEDO: Gladly.

BISHOP BACANI. Commissioner Alonto pointed out that the autonomous government is already existing de facto by reason of the Tripoli Agreement. I would ask how the provinces in these autonomous regions have de facto fared economically, politically and socially since that time. Has there been a marked improvement to justify optimism about the results in the future?

MR. ALONTO: With the permission of the Chairman, I will answer that very good question. The Commissioner must have noticed in my remark in response to the Vice-President that this present status or composition of these autonomous regions was never presented to the different provinces that constitute these autonomous regions. In other words, they were established by President Marcos in the exercise of his dictatorial power. As far as the economic, political and social conditions of these existing autonomous regions are concerned, the conditions are almost the same as those in other parts of the country; that is, instead of improving, they have deteriorated as other local units have experienced during the time of martial law. Hence, these existing de facto autonomous regions in Mindanao, instead of becoming a solution to the problem of strongly uniting the Filipino people, has worked the other way around because, as the Chairman of the Committee has said, their autonomy is only in words but not really in practice, considering that even the legislative assemblies are not empowered to legislate at all.

BISHOP BACANI: So, in fact, de facto means it does not exist?

MR. ALONTO: De facto means it is existing. As a matter of fact, even this regime has continued appointing officials in these autonomous regions.

BISHOP BACANI: Yes. In other words, we really have no experience yet even in the so-called autonomous regions.

MR. ALONTO: In truth and in fact, we have not exercised any autonomous authority.

MR. NOLLEDO: In other words, the former President retained his appointing powers. I just want to cite one provision to show that it was really a "cosmetic autonomy." Section 32 of P.D. No. 1680 states:

The collection, custody, use, disbursement and accounting of public funds in the autonomous region shall be governed by laws and regulations which cover similar local and national financial transactions.

It was really deceiving. And so, quoting Mr. Michael Mastura: "These autonomous regions were mere monitoring agencies for the President." The President was fooling Muslim Mindanao.

BISHOP BACANI: I have another question. There would be an autonomous region to be formed in Mindanao. But I am told — I do not know how accurately — that there are only three provinces of the 13 provinces originally covered by the Tripoli Agreement which are predominantly Muslim — Sulu, Lanao del Sur and Maguindanao and Sultan Kudarat.

MR. ALONTO: I beg to correct the Commissioner's impression. It is true that not all these 13 provinces are predominantly Muslim, but there are at least seven — Lanao del Sur, Lanao del Norte, Sultan Kudarat

Maguindanao, Basilan, Sulu and Tawi-tawi.

BISHOP BACANI: There are at least seven. So are those the ones to form the autonomous region?

MR. ALONTO: According to the report of the Committee, that depends upon Congress.

BISHOP BACANI: Let me go to the third question. This is similar to the question of Commissioner Suarez but I would like to get full enlightenment. Section 9 has this list of qualities — common historical, geographic, cultural, linguistic, ethnic, communal, economic or other characteristics within the framework of and respecting the national sovereignty and territorial integrity of the Philippines.

In other words, these autonomous regions should be characterized by those aforementioned characteristics. This was asked yesterday: "Should all of these come together"? The answer was: "Well, some of them." However, which are the minimum characteristics that would come together?

MR. NOLLEDO: I must be very frank that the Committee was divided on the interpretation of this provision. As Chairman of the Committee, the body has to pardon me, if I give my opinion without binding those in the Committee who disagree with me. To my mind, any of those criteria can qualify as a basis to set up an autonomous region. But as much as possible, considering that we are mandating Congress to form autonomous regions, it will be discretionary on the part of Congress which of these characteristics should come together or whether a majority of them should go together. So we are giving Congress a leeway to determine the criteria. As much as possible, a majority of them should exist. But as pointed out by Commissioner Napoleon Rama yesterday, other than linguistic or ethnic characteristics, economic or other characteristics may be a basis. In other words, I can now conclude that it is up for Congress to determine the criteria, whether a majority or two or three of these should exist in order to justify the formation of an autonomous region.

BISHOP BACANI: From this enumeration, may I know the exact meaning of "communal"?

MR. NOLLEDO: The word "communal" was introduced by one of our Muslim brothers who appeared before us because he thought it could be a basis of, for example, Ilocanos going together in forming a regional government. When we say "communal," they have common aspirations, language, et cetera. So, we do not need to apply ethnic, historical or cultural characteristics. This term is broader than "cultural, linguistic or ethnic." For example, Ilocanos or Bicolanos in Central Luzon can ask for the formation of their autonomous regions because they are bound by communal characteristics.

BISHOP BACANI: My final question is related to what we may be discussing later on in the Declaration of Principles. Should we talk about the separation of Church and State or something along those lines? Within these autonomous governments, will there be a separation of Church and State? Let me explain why I ask that.

Yesterday, Commissioner Uka presented to us excerpts from a paper entitled, "A Primer on the Autonomy." This came from the Mindanao State University's conference of 500 Bangsa Moro national leaders. There is a quotation stating that "Islam is both religion and government." The other one, as quoted by Commissioner Uka, says:

Islam is the religion and way of life of the Bangsa Moro that require a separate political or administrative framework from the western concept and principle of separation of Church and State.

Thirdly, in this paper on the Bangsa Moro we are told some details of the proposed autonomy. They say that the legislative assembly shall enact political, economic, educational and social legislations including the institutionalization of shari'a courts and an internal security force for the Bangsa Moro nation in accordance with Islam. In other words, within this framework, there would seem to be a very close union between the Church and State or religion and the State. Should we approve these autonomous governments or these autonomous regions,

we would still be able to speak of the separation of Church and State for the entire Philippines or would there have to be an explicit exception for autonomous regions?

MR. ABUBAKAR: May I answer that?

MR. NOLLEDO: May I just make one statement.

The Committee will deputize the honorable Ambassador Abubakar after a few seconds. As far as these Shari'a courts are concerned, I do not think they will infringe upon the separation of the Church and State because those courts will only enforce the customs and traditions embodied in the Muslim personal law as decreed by Mr. Marcos as may be passed by Congress.

May we ask Commissioner Abubakar to comment on that.

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

MR. ABUBAKAR: It seems that my good friend and colleague has doubts about the existence of a separation of Church and State in Mindanao and in Sulu.

BISHOP BACANI: I am only asking a question. I am asking from ignorance because of the quotations that have been furnished me.

MR. ABUBAKAR: There is an absolute separation of Church and State in the Muslim provinces. We have the governor for the whole province, the municipal mayors for the municipalities, and the councilors or members of the board. These two bodies legislate: the municipal board for the municipality and the provincial board for the province.

In recognition of the Muslims' right especially of the people of Mindanao — who had at least advantaged position of all the regions because during the Spanish-American regime they were rather very late in absorbing modern education and modern practices — a department separate from the national government was created during the American regime. They called it the Department of Mindanao and Sulu. For a while, the Executive Secretary was Frank Carpenter, an American. But this has passed. Now, there is a complete separation. In a Muslim province, we have there a governor, municipal mayors and councilors. The provincial board legislates for the province and the municipal council legislates for the municipality. There is no amalgamation or absorption either by the State or the Church in their respective spheres of influence. The church or the mosque is neither built nor administered by the State. Churches are administered by the Imam who is selected by the Muslim community of that particular region. The Imam does not receive a penny of contribution from the municipal council or from the provincial government.

This practice has been going on since the American regime up to the present. We have recently instituted the Regional Legislative Assembly which is well-known as has been accepted in Mindanao and Sulu. There is a Speaker of the Assembly and there are regional representatives from the different provinces like Sulu, Basilan, Tawi-Tawi, Zamboanga and other parts of Mindanao.

So, in that context, we are even ahead of the Constitutional Commission in legislating for the autonomous region. There is no regional governor. Each province has its own governor. The municipalities are governed in the same way the municipalities in Luzon and the Visayas are governed. But while the Visayas is more advanced and is more adjusted to modern administration because of the 360-year rule of Western powers — first Spain and then the United States — its orientation is easily understandable from our concept of constitutional arrangement.

What is now asked for Mindanao is local autonomy in terms of the executive as well as municipal powers. Actually, we are already enjoying local autonomy. I know that because I am a friend of the Speaker of the

Legislative Assembly for one of the southern autonomous regions. As I have stated before, Mindanao is composed of several provinces, the population of which is not predominantly Muslim. The residents in Zamboanga are in the ratio of 50 to 60. There are many Muslims there. Basilan and Sulu are predominantly Muslim, and so on and so forth. So I cannot understand then what the Commissioner's concept of local autonomy is.

MR. NOLLEDO: Thank you, Ambassador Abubakar. Commissioner Alonto will answer for exactly one minute.

MR. ALONTO: Yes, it is only a few remarks about the separation of Church and State.

BISHOP BACANI: I am only asking whether this should be part of the autonomous government setup. I am not even objecting to it. Please do not misunderstand me.

The reason is that one of the characteristics cited is "common cultural" which, of course, would involve religion. In fact, in one actual proposal, even the organization of the army will be according to Islamic laws.

MR. NOLLEDO: Commissioner Bacani, I think Islamic law will only be a guiding principle, in the same manner that officials of our government who are Catholics are bound by the Catholic doctrines in the discharge of their duties, without destroying the separation of the Church and the State.

BISHOP BACANI: Yes. I appreciate the answer of Commissioner Abubakar, but he is speaking of the present setup. What I am asking is, in the future, in the autonomous region that will be set up, will the consequences that I have suggested come about?

MR. ALONTO: As a matter of fact, the provision on separation of Church and State is embodied in the Constitution which we are now framing, and which is for the whole country, not only specifically for a certain portion. So, since this is for the whole country and the principle of separation of Church and State is a general provision, it applies to the entire country; it covers the Republic of the Philippines. Besides, this doctrine of separation of Church and State is a western concept that has been brought to us here. In effect, the Church should not interfere in what is purely a state function, but in the case of Islam, that does not appear.

BISHOP BACANI: In other words, the Church or the religion can interfere in State functions?

MR. ALONTO: Yes, because in Islam there is no Church. The State or the community or the nation is all Islamic if it conforms with the principal doctrines of Islam, and so, that does not affect the government. And so, since it is stated in the Constitution that there is a separation of Church and State, the Church cannot interfere in what is purely a State affair.

MR. BENNAGEN: Mr. Presiding Officer.

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

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

Let me respond briefly to the third question of Commissioner Bacani with regard to the minimum combination of criteria for granting autonomy. The criteria should respond to the overall criterion of viability. It is important that when we look into the geographic, cultural, linguistic, ethnic and other criteria, we should examine the interrelationship of these and the issue of viability. This is important because yesterday, mention was made of even the possibility of some islands in central Philippines also asking for autonomy.

In various studies of archipelagic states, it is the conclusion that the island ecosystems are not too viable as independent development units. We are saying, therefore, that the interrelationship of geographic or, preferably, ecological, along with cultural to include politico-legal systems and economic capability, should be seen.

The question of language is to me a secondary issue, in the sense that there could be several languages within an autonomous region. In other words, the criterion of history refers nothing more to the temporal processes that link together ecological capability, cultural viability and economic capability of the region. That is an important consideration in response to the query of Commissioner Padilla as to the distinction between autonomy and merely decentralization of power. There has to be sufficient authority at the regional level to see to it that this viability is, in effect, realized.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: In view of the fact that over 25 Commissioners have already interpellated, Commissioner Maambong said he will set an example and would demand only five minutes to interpellate.

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

MR. MAAMBONG: Mr. Presiding Officer, I will try my best to set an example but it depends really on the answer to my question. First, my question is on the creation of political subdivisions.

I notice that in Section 1, the term "barrios" is used. I was wondering whether we could realign this term "barrios" because this has created a lot of confusion. In all the laws that we have, for example, in the Local Government Code — Batas Pambansa Blg. 337 — we used the word "barangay." In P.D. No. 1508, establishing a system of amicably settling disputes at the barangay level, we used the word "barangay," as well as in all other presidential decrees and laws. But, probably, the Committee can address itself to this problem later on.

MR. NOLLEDO: I would like to answer that, Mr. Presiding Officer. Our Committee has decided to change "barangay" into BARRIO because ancient documents, titles, surveys, even names of schools still carry the word "barrio." The Gentleman is only talking of decrees and statutes passed by the Batasang Pambansa. They can easily be changed. But I think barangay is just a Marcos invention. The real and original term is "balangay."

So, we recommend to the Commission to please revert, for valid reasons and also for sentimental reasons, to the word "barrio."

MR. MAAMBONG: I am open to the suggestion of the Committee.

MR. NOLLEDO: Thank you.

MR. MAAMBONG: But I just want to recall that in my study of history, we used to refer to the smallest political unit of our country as "balangay" which is closer to barangay. Anyway, let us just leave that point.

I will go to the other problem on political subdivisions and I am referring to a political subdivision not mentioned in the present configuration of the provision. I am talking about subprovinces which appear to be in limbo.

In the 1973 Constitution, we forgot about our subprovinces. Now, we have likewise forgotten the subprovinces. I would like to put it on record that we do have subprovinces. We have the subprovinces of Biliran in Leyte and Guimaras in Iloilo. Biliran has more inhabitants than the provinces of Siquijor and Batanes combined. How do we treat these subprovinces now?

MR. NOLLEDO: I believe that subprovinces are extensions of provinces. And when we talk of provinces, extensions are already included. Considering that the status of subprovinces is only temporary and they are expected to assume the full characteristics and status of a province later on, we did not include such subprovinces

as political subdivisions of the Republic of the Philippines.

But for legal purposes, I would consider them extensions of provinces. And for purposes of redistricting in the Committee on the Legislative, I would recommend that subprovinces be considered extension of provinces.

MR. MAAMBONG: Unfortunately, under Section 198 of the Local Government Code, the existence of subprovinces is still acknowledged by the law, but the statement of the Gentleman on this point will have to be taken up probably by the Committee on the Legislative. A second point, Mr. Presiding Officer, is that under Article 2, Section 10 of the 1973 Constitution, we have the provision which states:

The State shall guarantee and promote the autonomy of local government units, especially the barrio, to insure their fullest development as self-reliant communities.

This provision no longer appears in the present configuration; does this mean that the concept of giving local autonomy to local governments is no longer adopted as far as this Article is concerned?

MR. NOLLEDO: No. In the report of the Committee on Preamble, National Territory, and Declaration of Principles, that concept is included and widened upon initiative of Commissioner Bennagen.

MR. MAAMBONG: Thank you for that.

With regard to Section 6, sources of revenue, the creation of sources as provided by previous law was "subject to limitations as may be provided by law," but now, we are using the term "subject to such guidelines as may be fixed by law." In Section 7, mention is made about the "unique, distinct and exclusive charges and contributions," and in Section 8, we talk about "exclusivity of local taxes and the share in the national wealth." Incidentally, I was one of the authors of this provision, and I am very thankful. Does this indicate local autonomy, or was the wording of the law changed to give more autonomy to the local government units?

MR. NOLLEDO: Yes. In effect, those words indicate also "decentralization" because local political units can collect taxes, fees and charges subject merely to guidelines, as recommended by the league of governors and city mayors, with whom I had a dialogue for almost two hours. They told me that limitations may be questionable in the sense that Congress may limit and in effect deny the right later on.

MR. MAAMBONG: Also, this provision on "automatic release of national tax share" points to more local autonomy. Is this the intention?

MR. NOLLEDO: Yes, the Commissioner is perfectly right.

MR. MAAMBONG: My last point is an issue which is very close to the heart of our Floor Leader. We have here a provision in the 1973 Constitution, Article XI, Section 4 (1), which indicates the independence of highly urbanized cities in relation to the province. This "independence" is also indicated in Section 15 of the Local Government Code, and in Section 165 of the same Code. I would like to point out also that in the case of *Ceniza vs. COMELEC*, L-52304, decided on January 28, 1980, the issue was:

. . . whether the prohibition imposed on voters of highly urbanized cities from voting in provincial elections subvert the Principle of Republicanism by depriving them of the right to participate in government through the exercise of the right of suffrage.

The Supreme Court emphatically said, "No, that is not a violation, because provinces have no jurisdiction over highly urbanized cities." Considering this particular provision of the 1973 Constitution, together with the provisions of the Local Government Code and this Supreme Court decision in *Ceniza vs. COMELEC*, is the concept on component cities and highly urbanized cities no longer acceptable in the present configuration of the

Article an Local Governments?

MR. NOLLEDO: That will be the implication because we did not reproduce in either of our reports Section 4 (1). Therefore, in highly urbanized cities, while these form part of the province, the people should be allowed to vote for the elective officials of the province. That is what Commissioner Rama wants to be included here, and if he presents an amendment to that effect, the Committee will gladly accept the amendment.

MR. MAAMBONG: Mr. Presiding Officer, if that is the present thinking of the Committee that the voters of highly urbanized cities, like Cebu City and other cities, will be allowed to vote for their provincial elective officials, will there be reciprocity if that happens? I mean, will the provincial voters also be allowed to vote for the elective officials of the highly urbanized cities?

MR. NOLLEDO: As far as I am concerned, unless there is an amendment to that effect, the reciprocity should not apply.

MR. MAAMBONG: Why not?

MR. NOLLEDO: It is because in the case of the province the inhabitants thereof have no direct interest in the affairs of the urbanized cities. That is only my opinion. I do not bind any member of the Committee nor the Committee itself. If Commissioner Rama presents an amendment, then he might indicate reciprocity. I do not know his sense about this question.

MR. MAAMBONG: One final question, Mr. Presiding Officer.

In the creation of local government units, like the barangay, the city, the municipality, or the province under the Local Government Code, there are four criteria: minimum area of territory, population level, average estimated annual income, and that the new creation should not reduce the population and income to less than the minimum of the unit to which it formerly belonged. Now, in the creation of regional autonomous regions, will the same criteria be applied?

MR. NOLLEDO: It will be up to Congress. However, those criteria may possibly be considered.

MR. MAAMBONG: Thank you very much.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: I ask that Commissioner Sarmiento be recognized to interpellate for three minutes.

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

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

Before I address a few questions to the Committee headed by the distinguished Commissioner Nolleto, may I be allowed to say a few words.

First, I am one of those who yearn for genuine home rule and autonomy for the people of the Cordilleras and Bangsa Moro. Second, although I deeply appreciate the bold step — the radical innovation introduced by the Committee — I have my reservations concerning the giving of autonomy to many regions which, in the words of Commissioner Nolleto, will pave the way for a federal country.

My first question is: Am I correct to say that the Committee, I believe, was actuated by a desire principally to give autonomy to the two regions when they formulated this Article on Autonomous Regions?

MR. NOLLEDO: Yes, generally.

MR. SARMIENTO: May I know from the Commissioner the provinces that would constitute this Cordillera autonomous region and the Bangsa Moro autonomous region?

MR. NOLLEDO: Commissioner Bennagen should answer that.

MR. SARMIENTO: I address my question with respect to the Cordillera autonomous region to Commissioner Bennagen.

MR. BENNAGEN: The answer to the question was given yesterday, but for purposes of emphasis, we will gladly answer that. Essentially, as we pointed out in answer to the query on the idea of autonomy, we said that the key issue here is ancestral land rights and not necessarily the existing boundaries. For purposes of specifying certain clearly bounded areas, the contemplated autonomous region for the Cordillera would include Kalinga-Apayao, Mountain Province, Benguet, of course, Baguio City, the Tingguian area of Abra, the Province of Ifugao and, if my understanding of the ethnography of the region serves me right, there will be certain areas in Nueva Vizcaya, Pangasinan, La Union and Ilocos Sur.

MR. SARMIENTO: Were the people of these places consulted when this draft article on autonomy was formulated? What was their response?

MR. BENNAGEN: There have been ongoing consultations in the region as well as consultations in Mindanao. For instance, when two Members of the defunct Batasang Pambansa filed proposals for regionalization, there were already consultations even then, and since then more intensive, more comprehensive consultations have been conducted by various groups, professionals and sectoral organizations. As of the last count, there have been more than 12,000 signatories or thereabouts endorsing the idea of the Cordillera autonomous region. It cuts across various sectors and it cuts across the various existing political units.

MR. SARMIENTO: In other words, these people are supportive of this idea?

MR. BENNAGEN: Definitely. But that does not preclude other consultations later on.

MR. SARMIENTO: What about the Bangsa Moro autonomous region? We were given a copy of a draft constitution by a group of Muslim students, academicians, etc., who said that the Bangsa Moro region shall comprise the provinces of Palawan, Tawi-Tawi, Sulu, Basilan, Zamboanga del Sur, Zamboanga del Norte, North Cotabato, Maguindanao, South Cotabato, Sultan Kudarat, Lanao del Sur, Lanao del Norte and Davao del Sur, including the cities of Iligan, Cotabato, Marawi, General Santos, Zamboanga, Pagadian, Dipolog and Dapitan. May I ask Commissioner Alonto if the people of these places were consulted when this Article on Autonomous Regions was formulated? What was their response?

MR. ALONTO: That is a very good question, but I cannot actually tell you now what are the provinces included because that is within the province of Congress. In this report of the Committee, Congress will have consultation with the elected officials of the different provinces and cities and municipalities in the area. The provinces that were recited are the same provinces that were included in the negotiation between the government of former President Marcos and the Moro National Liberation Front. All those 13 provinces were included in that negotiation. But after the negotiation, when they came out with the Tripoli Agreement of 1976, Mr. Marcos unilaterally implemented that negotiation and organized the two existing autonomous regions of Mindanao — Region IX and Region XII. But not all of those 13 provinces are within these areas now.

MR. SARMIENTO: Thank you.

I have three questions that will require brief answers.

MR. BENNAGEN: Mr. Presiding Officer, may I give a brief comment.

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

MR. BENNAGEN: As a matter of firsthand information, I know that there have been ongoing consultations amongst various groups of the Bangsa Moro in Marawi, in Zamboanga and in Cotabato. As early as 1981, there have been smaller consultations between Muslims, on one hand, and Christians on the other, together with what is generally known as "Lumad," a generic term for tribal groups in Mindanao. So, these consultations are ongoing.

MR. SARMIENTO: Yesterday, during the sponsorship speech delivered by Commissioner Nollado and in the course of the interpellation made by Commissioner Rama, Commissioner Nollado said that this article on autonomous regions will pave the way for federalism as he challenged us to transcend the shell of obsolescence. I think Commissioner Nollado is aware that in July we conducted several hearings in many provinces, and in those public hearings, the people clamored for a unitary form of government. My question is this: Is it not too presumptuous on our part to advocate federalism when our people in the provinces — we went to Bicol and the Visayas — clamor for a unitary form of government? May I hear the response of Commissioner Nollado who was with me in Naga City where the people clamored for a unitary form of government.

MR. NOLLEDO: I beg to disagree. In Naga City, I personally asked the people and they said they were for federalism. In Davao City, they were for an autonomous region. Now, I would like to mention here that the people are sharply divided in their opinions. Our consultations are limited in nature. So, we cannot say that the opinion expressed is the opinion of the entire Filipino people because we went to only selected areas. I wish to say that when I use the word "federalization," I do not mean the federalization as understood in the United States. That is why in my original speech, I said "federalization by the establishment of autonomous regions," as authorized in this report. I have to emphasize that because I am misunderstood. I wanted the country to be divided so that there will be economic progress. I feel that the unitary system in the country has miserably failed, and we will repeat that. The advantages of truly decentralizing the Philippines are given in a handout just distributed to us through the courtesy of Commissioner Rosario Braid.

MR. SARMIENTO: I will not debate with the Gentleman on federalism. I have these last two points to raise. Section 9 states that "The legislature shall create autonomous regions." My emphasis is on the word "shall." Yesterday, Commissioner Nollado stated that many of these provisions were extracted from the UP draft; however, the UP draft used the word "may" instead of the word "shall." Also, a group of Muslim students gave this Representation a draft constitution where the word "may" is used instead of the word "shall." As pointed out by Commissioner Villacorta, Spain used the word "may" instead of "shall." Would it not be wise that we use the word "may" instead of using "shall"?

MR. NOLLEDO: The word "may" can also be interpreted as "shall" depending on the intention of the provision. Let me explain why we used the word "shall." Upon the request of the Muslim leaders who appeared before our Committee several times, they said that it must be mandatory. However, as I explained yesterday, the word "shall" here would, in effect, mean "may" because there are certain requirements to be complied with before an autonomous region may be established. There must be consultation with the respective heads of provinces and cities; there must be an organic act to be passed by Congress, and Congress is given the right to set up the government structure with the details set forth also in this report; and there must be a plebiscite to be held. Therefore, without these conditions being complied with, Congress may not, after all, set up the autonomous region. So, I hope the body will bear with us and with the Muslim leaders who appeared before us by tolerating the word "shall" as found in Section 9 of the second part of our report.

MR. SARMIENTO: I think the Committee agrees that the Bangsa Moro people and the people of Cordillera

should be given autonomy and many of our colleagues are supportive of their idea. Would it be proper if we mention in this Article these two regions, mentioning Bangsa Moro people and the people of Cordillera, instead of making a general statement creating autonomous regions? It would encourage, in the words of Commissioner Romulo as quoted in the Malaya, the Bicolanos and the Ilocanos to advocate for autonomy which would be dangerous.

MR. NOLLEDO: With respect to that, I beg to disagree, if Commissioner Romulo was correctly quoted, that it will destroy the republican system or the presidential system. I would like to remind Mr. Romulo whose father was Ambassador to the United States that the United States government is federal in nature and is presidential in form, so that federalization is not inconsistent with the presidential form of government. I hope Commissioner Romulo must have been misquoted.

We should give leeway to Congress for the possibility of creating more autonomous regions beyond the Cordillera and Muslim Mindanao. I think this is the golden opportunity for us to open that avenue. We are not mandating Congress to create other autonomous regions. We are mandating Congress to create the Cordillera and Muslim Mindanao autonomous regions in obedience to the continuing, loud and clear cry from the people in these regions.

And so, I hope that this body will bear with me again. Let us open that avenue; let us give leeway to Congress. Congress may decide later on, that there should be more autonomous regions in the Republic of the Philippines. I ask for broadmindedness on the part of the Members of this Commission.

MR. SARMIENTO: I also appeal to the Committee to give emphasis to these two regions instead of giving autonomy to other regions.

MR. NOLLEDO: We are giving that emphasis, but many are objecting to mentioning the names of Cordillera and Muslim Mindanao in our report. I would like the Members of the Commission to know that in the Constitution of Russia, the autonomous regions are mentioned specifically. They say that the constitution, being the fundamental law, is a permanent document. I would like them to know that Cordillera is permanently located in the area where it is located within our country, and that Muslim Mindanao is also permanently located. So, there is no harm mentioning them in the legal document that we are now drafting.

MR. SARMIENTO: Would Commissioner Nollado kindly enlighten this Representation about the clause "When circumstances so warrant" which appears on page 3, line 9? This is with respect to the creation of special forces. What is so special about these forces that they are called "special forces," not regular forces?

MR. NOLLEDO: We actually qualified only the term as found in the Tripoli Agreement. I beg to disagree with those who said that the existence of security forces as found in the Tripoli Agreement is to be negotiated. It was stipulated upon but it is only the relationship between the special forces and the central forces that remains to be negotiated.

Special forces are those which are generally independent of the army. For example, since the country is archipelagic in nature there are instances when our army may be called to contain the insurgency in Cagayan or in other parts of Bicolandia or in Samar. And so, there will be a need to supplement the local police forces with special security forces that may come from volunteers from the autonomous region. The Gentleman will notice that the original provision is very general. It says that they can establish special forces period.

So, I hope they will not get angry if I added several words. I was the one who added "When circumstances so warrant" and then, "subject to supervision by the national armed forces" and "under such provisions as the law may provide." In effect, these will weaken the strength that may be gained from the establishment of these special forces. My purpose is to implement the provision that the autonomous regions shall exist within the framework of

national sovereignty and respecting the territorial integrity of the Republic of the Philippines.

MR. SARMIENTO: Thank you for the inspired and fervent explanation.

Thank you, Mr. Presiding Officer.

MR. NOLLEDO: Thank you.

MR. RAMA: Mr. Presiding Officer.

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

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

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

MS. AQUINO: Mr. Presiding Officer, with all due deference to the Committee and to Chairman Nollado who has no peer in the field of constitutional law, I beg to differ with the committee report.

I fully support the demand of the Bangsa Moro and the Cordillera people for local autonomy. But I cannot subscribe to the committee report which would grant Congress plenary power and authority to declare autonomous regions all over the country. Autonomy as a formal and juristic concept essentially involves a match between the State's original power against the derivative power of the autonomous regions. Is not there any fundamental conceptual incompatibility between the State's sovereignty and the power of the autonomous regions?

MR. NOLLEDO: As I already stated, these autonomous regions are established within the framework of our national sovereignty. And in answer to the question of Commissioner Bengzon this morning that should there be rebels against the government, whether this will prevent the President from sending the armed forces to suppress the rebellion, I said, "No, because of the expression 'within the framework of national sovereignty.'" We are not granting sovereignty to the autonomous region. That is why the term "power of autonomous region" was appropriately used because as an accepted principle in constitutional law, sovereignty is indivisible. That is why we also maintain the provision in both Committee Report Nos. 21 and 25 that the President of the Philippines has supervisory power over autonomous regions to see to it that laws are faithfully executed. So, I find no inconsistency between the powers to be granted to autonomous regions and the sovereignty of the Republic of the Philippines.

MS. AQUINO: On the matter of concepts, I might agree with Commissioner Nollado, but in practical application, there are some serious ramifications. For example, in the context of a Third World, the concept of autonomy is invariably linked to the factors of self-sufficiency in a modernized state and state sovereignty. In the contemporary times, the present claims for autonomy arise essentially from the strained relationship between a dominant group and a subordinate group.

We hear the assertions for sovereignty and autonomy from ethnic, cultural and religious groups, specifically from the Bangsa Moro and the Cordillera people. I have no quarrel with that; in fact, I am fully supportive of that. However, for all of its rhetoric, a claim of autonomy for all of the regions as provided for in Sections 9, 10, and 11 is fraught with a lot of danger to the existence of the State. In fact, it may be more counterproductive than productive.

We have not yet learned how to vitalize a local government in the context of the Philippine politics. Regionalistic problems remain unresolved. The basic problems of poverty, education and welfare are so perverse that the traditional modes and approaches to these problems are seriously being questioned. All serious, sane, and prudent

attempts to solve this kind of problem would call for more centralization than fragmentation. It is my fear that this bold step that the Committee is taking borders on constitutional adventurism.

MR. NOLLEDO: Yes. I am happy that Commissioner Aquino is making those observations because there is no adventurism; we are merely opening the way towards declaring the different regions in the Philippines autonomous, in addition to the Cordilleras and Muslim Mindanao. I think the Commissioner's fears are groundless because the Committee has not decided that those should be the steps to be taken. We are merely opening the avenue towards Congress setting up more autonomous regions. Suppose Congress does not set up because Congress was convinced by the observations of Commissioner Aquino, then I have no qualms about it; I have no objection against it. That is why the Commissioner should say more in discouraging Congress from setting up other autonomous regions.

But to picture the fact that the Committee has recommended the setting up of autonomous regions other than the Cordilleras and Muslim Mindanao in explicit terms, I think, is gratuitous. We are merely opening the way, giving more leeway to Congress to do that. I think this is our duty to the nation because of the possibility that later on declaring the Cordilleras and Muslim Mindanao as autonomous regions would have beneficial effects and Congress, perhaps, may be inspired or urged to set up more autonomous regions. The hands of Congress will be tied if we do not make Section 9, more or less, flexible.

MS. AQUINO: Mr. Presiding Officer, I cannot seem to come to terms with the position of the Committee. If that is the intention of the Committee, what then is the justification for the unwarranted libertinism in Sections 9 and 10?

MR. NOLLEDO: Mr. Presiding Officer, I object to the words "unwarranted libertinism." We are giving Congress a leeway.

MS. AQUINO: I was just proceeding from the position of the Committee as the Gentleman has articulated.

MR. NOLLEDO: Yes, that is true. We are giving merely a leeway to Congress, otherwise, we can easily state here that autonomous regions should refer only to Muslim Mindanao and the Cordilleras. If I did not say that this provision is flexible as to open an avenue towards formation of autonomous regions, perhaps the controversy between us would never arise. In fact, if I did not say that, I think the Commissioner cannot even imply from that.

MS. AQUINO: Thank you.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: There are two more interpellators, and with a little bit of luck we will be able to move to the period of amendments.

I ask that Commissioner Tan be recognized.

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

SR. TAN: Mr. Presiding Officer, I have a short question that needs a short answer.

There is sometimes the paranoia that such moves for autonomy are motivated by minority dominant groups. Has the Committee found a gauge that would determine if this move of the Cordilleras is genuine, historical and social aspirations of the majority? Is the official plebiscite adequate? Is it not too late?

MR. NOLLEDO: Please do not ask us to give a brief answer.

MR. BENNAGEN: Let me give a brief answer. Yes, for both the Cordillera and the Bangsa Moro regions to the extent that we are aware of the nature of the consultations.

SR. TAN: What is the gauge?

MR. BENNAGEN: The range of consultations in terms of participants, in terms of sectors, and in terms of analysis of the issues.

SR. TAN: And how about the plebiscite?

MR. BENNAGEN: The plebiscite has to be done according to the Charter, according to Congress. The present consultations do not terminate the act of creating the autonomous region. They are merely phases of this process of attaining a juridical personality as an autonomous region.

SR. TAN: So, the answer of the Commissioner is the consultations which are not yet ended.

MR. BENNAGEN: Not yet ended.

SR. TAN: Thank you, I am satisfied.

MR. RAMA: For one question seeking clarification, I ask that Commissioner Villacorta be recognized.

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

MR. VILLACORTA: Mr. Presiding Officer, I beg the indulgence of the Chair. I have already spoken, but I thought that this basic clarification is needed.

First of all, I would like to reiterate that I am for regional autonomy for Muslim Mindanao and the Cordillera people, contrary to the allegation of one newspaper that I was against it. Mr. Presiding Officer, we were given the impression by the Committee that the rationale for regional autonomy is the need to rectify the imbalance in the development of different regions, particularly the regions of Muslim Mindanao and the Cordilleras and the neglect that these or some communal groups have suffered through the centuries. But now it seems that the Committee is talking about federalism rather than regional autonomy. The precedents that the Committee had mentioned were the regional autonomy in Italy, in Spain, in Portugal and in China. But in all these four countries that were cited by the Committee, there was selective regional autonomy, not a blanket one which would give the prerogative for all regions in those countries to opt for regional autonomy.

For example, in Italy the Constitution specifies that autonomy will be attributed only to Sicily, Sardinia, Trentino-Alto Adige, Friuli-Venetia Giulia and Valle d'Aosta. In Portugal, it was specified that autonomy will be given only to the Azores and Madeira. In Spain, regional autonomy is theoretically reserved for all the regions but the main motivation was to give recognition to the regional rights or autonomous rights of the Basque region and also Cataluña. Commissioner Ople also mentioned those regions that enjoy autonomy in China. Therefore, I am not entirely clear why the Committee is suddenly broadening the scope of autonomy. My understanding of the rationale is that this is something like sectoral representation by which we try to correct the imbalance so that the disadvantaged sectors may be raised and become equal some day to the more advantaged sectors. By allowing regions of the Christian lowland communities the same right, the Committee is not really correcting the imbalance but in fact, exacerbating it because it will be very difficult for Muslim Mindanao and the Cordilleras to catch up with the Christian lowlanders.

MR. NOLLEDO: If Commissioner Villacorta had listened to my explanations to Commissioner Aquino's questions, I think he would have easily understood my situation when I explained the meaning of federalization. I was talking also of autonomous regions. Even yesterday I already explained in my speech that I am talking of the

establishment of autonomous regions other than the Cordilleras and Muslim Mindanao, and we are merely opening the avenue towards Congress establishing other autonomous regions. If Congress so decides to regionalize all parts of the country adopting, for example, the 13 regions now constituted, there is no constitutional prohibition. So, please understand my situation.

MR. VILLACORTA: I have been listening attentively but I would like to go back to the rationale. How can we be opening the doors to other regions when the main premise is that we would want to correct the imbalance and, therefore, this is some kind of a special privilege to be given only to the so-called long oppressed communities; namely, Muslim Mindanao and Cordillera? Now, we want to give it to everyone. Then, where is the correction of the imbalance?

MR. NOLLEDO: I said we are opening the avenue for the possibility so that Congress will take a cue from it, if Congress so decides. Actually, this country should really decentralize effectively. I mentioned the situations when governors and city mayors would go to the National Capital Region to consult and ask for aid from Malacañang or from the Minister of Local Government but these officials cannot be found. What happens? They go back to their provinces and cities highly frustrated and bitter against the national government. I believe that it is only through effective decentralization, where political powers are equitably dispersed, that this nation will attain progress. The unitary system has failed in the Republic of the Philippines because of decentralization.

MR. VILLACORTA: Just a very brief rejoinder, Mr. Presiding Officer. There are two kinds of decentralization and these two concepts are recognized in public administration: political decentralization and administrative decentralization. I think what the Honorable Nollado is referring to is administrative decentralization and no one quarrels with him on that point. But we also understand that there are communities that require not just administrative decentralization, but also political decentralization. I think many, if not most of us, are willing to grant that to Muslim Mindanao and to the Cordilleras, but not to the other regions. Our national problem is fragmentation — we are severely fragmented as we are, culturally, psychologically, linguistically.

MR. NOLLEDO: It is only through fragmentation that this country will succeed. Quote me anywhere and I will debate with the Gentleman on that when we have the time.

MR. VILLACORTA: But may I also hear the reaction of Commissioner Bennagen.

MR. BENNAGEN: Yes. I was supportive and I still am supportive of the general provision on granting autonomy at some future time within the overall principle of autonomy as an effort to correct the centuries or years of injustice. I have in mind, for instance, the other tribal groups in Mindanao, which at some future time might evolve into some kind of an autonomous area. It does not have to be a province, a district or some other groups sharing the same characteristics already mentioned. We go by the principle of autonomy as enunciated in a paper by Prof. Albert Blaustein, entitled *Constitutional Protections For Indigenous Peoples*. A proposal is with the International Center for Constitutional Studies at Athens, which says: "In developing the constitutional rights of indigenous peoples, the following must be studied," and these are mentioned in the spirit of a proposal:

- 1) Autonomy — Autonomy is the constitutional term of the art for institutional arrangements granting a degree of freedom to a recognized, racial, religious, linguistic, ethnic, tribal or cultural group to order its own affairs. It is closely aligned with principles of self-rule and self-determination.

In answer to the Gentleman's question on what conditions do the rights of indigenous peoples warrant independent statehood, a federal structure or autonomous status, I think it is in this sense that it speaks of opening the possibilities for some future neglected areas to evolve into some kind of autonomy.

MR. RAMA: Mr. Presiding Officer.

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

MR. RAMA: We have reached the end of the long list of registered speakers. And before somebody stands up, I move that we close the period of sponsorship and debate on the Article on Local Governments.

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

MR. RAMA: Mr. Presiding Officer, I move that we proceed to the period of amendments on the Article on Local Governments and Autonomous Regions.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection to the motion that we move to the period of amendments? (Silence) The Chair hears none; the motion is approved.

SUSPENSION OF SESSION

MR. RAMA: In order to recharge our energies, I move that we suspend the session for a few minutes.

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

It was 4:38 p.m.

RESUMPTION OF SESSION

At 5:11 p.m. the session was resumed.

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

The Acting Floor Leader is recognized.

MR. MAAMBONG: Mr. Presiding Officer, I have just been designated as the Acting Floor Leader.

We are now in the period of amendments but before we start, may I ask that Commissioner Monsod be recognized.

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

MR. MONSOD: Mr. Presiding Officer, I do not know if there are other Commissioners who have the same conceptual questions as I have. I was wondering if it is possible for us to have a caucus on this Article before we go into the period of amendments.

THE PRESIDING OFFICER (Mr. Rodrigo): Does the Gentleman want to present a motion to that effect?

MR. MONSOD: Mr. Presiding Officer, I would like to propose a motion that the body meet in caucus to discuss some conceptual features of the Article before we go into the period of amendments.

THE PRESIDING OFFICER (Mr. Rodrigo): When does the Gentleman wish to hold the caucus?

MR. MONSOD: May we ask the advice of the Presiding Officer? Is it possible for us to go into the caucus right now?

MR. NOLLEDO: The Committee has no objection.

MR. MONSOD: If the Committee has no objection, we can go into the caucus right now, although I would prefer that we meet in the caucus room. I would like to propose if we can have an adjournment and go into caucus.

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

ADJOURNMENT OF SESSION

MR. MAAMBONG: Mr. Presiding Officer, in view of the statement of Commissioner Monsod and the thinking of the body that we should go into caucus, I now move to adjourn the session until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Rodrigo): The session is adjourned until tomorrow at nine-thirty in the morning.

It was 5:14 p.m.

[*] Appeared after the roll call

[*] See Appendix

[*] See Appendix

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