

JOURNAL NO. 54

VOL. I, August 12, 1986

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Tuesday, August 12, 1986

CALL TO ORDER

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

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Ahmad Domocao Alonto, to wit:

Wa qaala Rabbukum ud-'uunii 'astajib lakum.

And your Lord hath said: Call to Me that I may answer your call . . . (Q. 40:60)

AL FATIHAH

Bismillaahir — Rahmaanir — Rahiim. — In the name of Allah, Most Benevolent, Ever Merciful.

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

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

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

'Ar-Rahmaanir — 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 crisis 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 Faithfuls — 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. (Q. 1:1-7)

DUAA ' — SUPPLICATION

Rabbanaa laa tuzig quluubanaa ba'-da 'iz hadaytanaa wa hablanaa milladunka 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! (Q. 3:8)

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. (Q. 3:104)

AMEEN. YA RABBAL'ALAMIIN.

ROLL CALL

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

Alonto, A. D. Padilla, A. B.

Bacani, T. C. Muñoz Palma, C.

Bennagen, P. L. Quesada, M. L. M.

Bernas, J. G. Rama, N. G.

Rosario Braid, F. De los Reyes, R. F.

Brocka, L. O. Rigos, C. A.

Calderon, J. D. Rodrigo, F. A.

De Castro, C. M. Romulo, R. .

Colayco, J. C. Rosales, D. R.

Concepcion, R. R. Suarez, J. E.

Davide, H. G. Sumulong, L. M.

Foz, V. B. Tadeo, J. S. L.

Gascon, J. L. M. C. Tan, C.

Jamir, A. M. K. Tingson, G. J.

Lerum, E. R. Treñas, E. B.

Maambong, R. E. Uka, L. L.

Monsod, R. E. Villacorta, W. V.

Ople, B. F. Villegas, B. M.

With 36 Members present, the Chair declared the presence of quorum.

The following Members appeared after the Roll Call:

A. M.

Abubakar, Y. R. Laurel, J. B

Aquino, F. S. Natividad, T. C.

Azcuna, A. S. Nollado, J. N.

Bengzon, J. F. S. Sarmiento, R. V.

Garcia, E. G.

Messrs. Guingona and Regalado were sick.

Mrs. Nieva was absent.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF RESOLUTION, PETITION AND COMMUNICATIONS

Upon direction of the Chair, the Secretary General read the titles of the following Resolution Petition and Communications which were, in turn referred by the Chair to the Committees hereunder indicated:

Proposed Resolution No. 538, entitled:

RESOLUTION FOR THE CONSTITUTIONAL COMMISSION TO CONGRATULATE SENATOR TAÑADA

Introduced by Honorable 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 No. 2 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON HUMAN RESOURCES COMMUNICATIONS

Communication No. 524 — Constitutional Commission of 1986

Communication from Mr. Dorentino Z. Floresta of the Knights of Columbus, Council 3722, Olongapo City, strongly recommending that if the Filipino people thru its President, Corazon C. Aquino, decides to extend the U.S. Military Bases in the Philippines, 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

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

Communication No. 525 — Constitutional Commission of 1986

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

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

Communication No. 526 — Constitutional Commission of 1986

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

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 527 — Constitutional Commission of 1986

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 of "the right to life from conception" and the integration of "religious instruction" into the primary and secondary educational system

TO THE STEERING COMMITTEE

PARLIAMENTARY INQUIRY OF MR. VILLACORTA

At this juncture, Mr. Villacorta invited attention to Petition No. 2 in the Order of Business submitted by Mr. Decoroso Rosales and others, requesting the Committee on Human Resources to submit to the Commission a consolidated Committee Report. Mr. Villacorta pointed out that the Committee had already submitted a consolidated report a long time ago, but the Petition would give a wrong impression to the public about the efficiency of said Committee.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 9:58 a.m.

RESUMPTION OF SESSION

At 10:13 a.m., the session was resumed.

Upon resumption of session, Mr. Villacorta stated that, in fairness to the Members of the Committee on Human Resources, the consolidated report was submitted to the Commission on July 12, 1986 as scheduled. He stated, however, that because of the aggressive efforts of one lobbyist, Don Miguel Cuenco, some Members of the Commission had wittingly or unwittingly signed two petitions, which came as a surprise considering the rule that after a committees shall have submitted its report, whatever additional recommendations the Member or lobbyists may have should be presented on the floor.

Mr. Villacorta informed the Body that the Committee on Human Resources held a meeting precisely on Petition No. 1 which sought to incorporate a provision in the Constitution for the teaching of Philippine geography and folk songs as well as making Spanish an official language. He stated that in that meeting the Members therein patiently listened to Don Miguel Cuenco, author of the petition, whose endless talk prompted him to adjourn the meeting prematurely.

Mr. Villacorta noted that his Committee would again be confronted with another petition, this time containing a statement alleging that there were no educators in the Committee except Mr. Guingona and himself, which statement, he pointed out, was erroneous and unjust, the fact being that six other members of the Committee are well-known educators in their own right.

Finally, Mr. Villacorta gave the signatories of the second Petition the benefit of the doubt and appealed to the Members not to allow one lobbyist to create internal dissension within the Commission. He then asked the signatories to explain the background of the Petition.

COMMENT OF MR. BROCKA

Mr. Brocka asked whether the Members who signed the Petition read its text before signing. He read portions of the Petition and noted that there were things which, he opined, were absurd and would make the Members look like idiots.

MOTION OF MR. BACANI

Mr. Bacani stated that as one of the signatories, he had read the text of the Petition but in order to avoid further discussion, he would move that said Petition be withdrawn from the Order of Business.

REMARKS OF MR. CALDERON

Mr. Calderon stated that while he would not deny any Member the right to pinpoint the lobbyist, he found it unethical and unkind to mention names especially when the man referred to has an outstanding record as a patriot and parliamentarian.

REMARKS OF MR. MAAMBONG

As one of the signatories of the first Petition, Mr. Maambong recalled that in the last meeting of the Committee on Human Resources which was called for the purpose of hearing the Petition, the issue on the teaching of geography and folk songs was taken up and that the Committee heard Don Miguel Cuenco who insisted on the use of Spanish as one of the national languages.

Mr. Maambong admitted that he signed the first Petition because of his interest in the evolution of a national language and it was for this reason, he stated, that he was able to convince the Committee to incorporate as the last sentence of Section 12 of the Article his recommendation to give due consideration to the dialects and languages of the Filipinos in the development of the national language. He further recalled that in that same meeting, he explained to the Committee that the teaching of geography is already covered by Section 3 and the teaching of folk songs by Section 29. With respect to Don Miguel Cuenco's insistence on the Spanish language, the Committee was very emphatic in saying that it had already excluded the national language from the Committee Report.

Finally, Mr. Maambong opined that it would be improper to begrudge the Members who signed the second Petition because they may have some points which they would like to share with the Members in the same manner that he had a point when he signed the first Petition which was granted by the Committee.

REMARKS OF MRS. QUESADA

Speaking in behalf of the Committee, Mrs. Quesada asked for the deletion of the Petition from the Order of Business because it placed the Members of the Committee in a very disparaging light. She stated that it was just fair to react to a very unjust accusation of being incompetent.

APPROVAL OF MR. BACANI'S MOTION

Thereupon, there being no objection, the Body approved Mr. Bacani's motion to withdraw the Petition from the Order of Business.

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 21 ON PROPOSED RESOLUTION NO. 470 AND COMMITTEE REPORT NO. 25 ON PROPOSED RESOLUTION NO. 511 ON THE ARTICLE ON LOCAL GOVERNMENTS

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of the following Committee Reports, as reported out by the Committee on Local Governments

Committee Report No. 21 on Proposed Resolution No. 470, entitled:

Resolution proposing to incorporate in the new Constitution an Article on Local Governments; and Committee Report No. 25 on Proposed Resolution No. 511, entitled:

Resolution to incorporate in the new Constitution additional provisions in the Article on Local Governments.

Thereupon, the Chair recognized Mr. Nollado and the members of the Committee for the continuation of the

period of interpellations.

INTERPELLATION OF MR. COLAYCO

In his interpellation, Mr. Colayco recalled that in one of the Committee meetings, there was a big group from the Cordillera region which was against the grant of autonomy and this could also be said of Mindanao where there may be two opposing groups, one advocating an autonomy and the other against autonomy. Adverting to Section 12 of the Report, Mr. Colayco pointed out several areas where the autonomous government would have exclusive authority, among which are community centers for the benefit of the people therein, appointments to the administrative government and the construction of schools and self-help centers. Relative to these benefits, he raised the possibility that minority groups who objected to the grant of autonomy may be discriminated against in the apportionment of these benefits. In this regard, he inquired whether the Committee has instituted safeguards that would prevent such discrimination.

In reply, Mr. Nollado stated that it is provided in the Committee Report that even if autonomous regions are established through Congressional action, the President of the Philippines would exercise general supervision over these regions to ensure that laws are faithfully executed and no discrimination takes place.

Mr. Bennagen stated that the group referred to was not a big group and he informed that in one of the Committee meetings there were two groups bearing the same name "Kalinga-Isneg Self-Rule Self-Determination Movement" (KISSM), with different sets of officers, one headed by an anthropologist from Bicol and the other headed by a Kalinga. In order to put the issue to rest, Mr. Bennagen read a joint statement issued by KISSM and the Cordillera People's Alliance, to wit:

"The Kalinga-Isneg Self-Rule Self-Determination Movement and the Cordillera People's Alliance express our common position of support for the establishment of a regional autonomous government in the Cordilleras. We believe that by writing 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 who claims to represent KISSM. Ms. Parpan is not a true Kalinga and though she claims to hold our interests at heart, her actions merely serve to undermine the unity we have built through the years. Her words are her own and she cannot speak for the 2,000 members of the 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 Cordilleras and in the country".

Mr. Bennagen opined that these seemingly antagonistic relations among members of the Cordillera region are nothing more than the quarrels even among the best of families. He pointed out, however, that given the history of the Cordillera people, these quarrels could be resolved given their extremely viable customary laws aside from the supervision in the national level.

Mr. Colayco cited instances under the present system of government where the losing party is prejudiced in the apportionment of benefits. He opined that this may happen also to those people who may vote against the grant of autonomy, to which Mr. Bennagen replied that such a thing is not unique because it is the nature of social life.

On whether the Committee has provided safeguards against this particular danger and on the observation that in solving one problem subsequent problems may arise, Mr. Alonto acknowledged that discrimination is an important issue which should be seriously taken into account. He pointed out that historically, it was the Muslims who first raised the question of local autonomy because they were the first victims of serious discrimination not only by the colonialists but also by the great majority of the Filipino people. He stressed unity among the different sectors of society and progress in nation-building.

Mr. Alonto read a manifesto that started the idea of organizing autonomous regions, submitted before a Muslim Conference on Government Policies and Programs in 1976, which provides, among others, for complete local autonomy, with a defined and guaranteed territorial jurisdiction, and a legislative power to adopt local laws based on the Holy Qur'an. He also pointed out that a similar document was presented to former President Marcos which was also signed by Christians who feared being discriminated against with the grant of local autonomy to Mindanao.

Mr. Colayco, however, noted that he was referring to the discrimination wherein the provincial government is in the hands of Christians and the Muslims would be discriminated, or vice versa, in reply to which Mr. Alonto agreed that discrimination was indeed the main reason why the Muslims of Mindanao wanted to secede from the country. He assured, however, that the Committee had approved certain provisions guaranteeing against discrimination which is violative of the values that the Holy Qur'an teaches.

Mr. Bennagen also affirmed that Mr. Colayco's apprehensions would anticipate a kind of inversion of the existing dominant relationship and the possibility of the explosion of internal antagonism in the Cordillera and Bangsa Moro. He expressed hope that during the period of amendments, certain mechanisms would be provided to reduce the possibility of said conflicts to a manageable level.

On whether local governments would be given a free hand in creating new sources of revenue and levy taxes, Mr. Nollado stated that although there are certain limitations under P.D. No. 231 as amended by the Local Tax Code, Congress would be mandated to provide for guidelines in the imposition of local taxation.

REMARKS OF MRS. ROSARIO BRAID

Thereafter, Mrs. Rosario Braid stated that she was in favor of the concept of local autonomy moving towards "federalism", although another term should be used to have an exact description of decentralization. She opined that people power would not be attained in a unitary government.

She explained, however, that the proposal should be interrelated to provisions on human resource development, particularly with nonformal education and the broadening of educational resources towards political awareness. She pointed out that an inventory of communication and education resources showed that they were not tailored to the needs of a particular region. She also noted the poor system of rural telecommunications.

Finally, she urged that the Committee consider the reorganization of political areas into ecological provinces based on culture and managed according to the biological environment, such that the old provincial division based on gerrymandering policies of the elite would be scrapped.

In reply, Mr. Nollado supported Mrs. Rosario Braid's desire to improve social services in line with Mr. Rama's contention that regional economy is significant in the national economic development.

INTERPELLATION OF MR. AZCUNA

In reply to Mr. Azcuna's query, Mr. Nollado affirmed that Section 1 provides for local government units while Section 4 provides for general supervision by the President over all government units.

On whether Section 11 would be duplicating the provisions of Section 4 since the autonomous regions are also part of the local government units, Mr. Nollado explained that Section 11 would emphasize the power of the President over the autonomous regions. He stated, however, that there was a proposal to separate the autonomous regions from the Article on Local Governments.

Mr. Nollado also affirmed that in order to be granted autonomy, a region has to obtain a charter or an organic act

from Congress. However, he pointed out that the people of the Cordillera and the Bangsa Moro need not petition Congress for an organic act because Congress would be mandated to promulgate their respective charters within one year from the election of its Members. But he noted that effectivity of the creation of said autonomous regions would be upon approval through a plebiscite in all local units directly involved.

On whether the autonomous regions would be first organized and their territorial jurisdictions would be later defined by Congress, Mr. Alonto pointed out that Section 10 provides for a period of consultation between Congress and elective officials of the provinces and cities within the region to determine what provinces would like to be included in the autonomous region and those which do not desire to be included may be excluded from the territorial jurisdiction of the region but included by Congress in the organic act to be submitted in a plebiscite. He explained that the process would avoid discrimination in the region.

On the uniform powers given to all autonomous regions, Mr. Azcuna observed that their customs and traditions may contradict the Bill of Rights, in reply to which Mr. Alonto opined that the Bill of Rights would prevail over customs because it is the fundamental law of the land.

INTERPELLATION OF MR. MONSOD

In reply to Mr. Monsod's query on the disadvantages of the creation of autonomous regions, Mr. Nollado stated that there would only be insignificant problems such as funding adjustments. He stated that the Cordillera and the Bangsa Moro would just be models, and should they become successful, Congress may create other viable autonomous regions.

Mr. Monsod observed that if all regions would want to have local autonomy and they were granted such autonomy, an autonomous region may impose countervailing duties on products of other regions in order to compensate for high costs of power generated from other regions which would nullify the benefits of the original autonomous regions, in reply to which Mr. Nollado noted that Congress has the duty to study the fiscal effects of regional taxation, and should discourage countervailing imposition of taxes by stating it in the guidelines it would set forth in implementing regional taxation.

Mr. Nollado affirmed that it is possible when the entire country is divided into autonomous regions that there would be countervailing levies and duties with the autonomous regions invoking their natural advantages over ports and water, mineral or forest resources.

Also, in reply to Mr. Monsod's query, he stated that after the establishment of an autonomous region, because of the inflow of people from other parts of the country and the change over time in the profile of the voting population, it is possible that the people therein may later opt no longer for an autonomous government but for a reversion to its status before the autonomy. Moreover, he pointed out that the organic charter creating autonomous regions would be enacted only through ordinary legislation.

On Mr. Monsod's query as to who would determine the regional boundaries, Mr. Nollado replied that Congress would, as a precondition of Section 16 to the formulation of the organic law.

As to what would be the arrangement should the elective positions in an autonomous region dominated by Muslims be later on won by the Christians, Mr. Nollado opined that in that event the customary civil laws of the Muslims would still apply to them while the Christians would be bound by the provisions of the New Civil Code. He added that Presidential Decree No. 1083 ordains and recognizes a code of personal laws for the Muslims. He also stated that although the draft Article does not contain a provision applying the principle of universal and equal suffrage, some Members would present an amendment to ensure equal representation between Muslims and Christians.

On Section 2, in reply to the query whether the sectoral representatives provided for therein should be interpreted within the context of the provisions on sectoral representatives in the Article on the Legislative, Mr. Bennagen stated that there cannot be national categories of sectors because existing social differentiation in the regions would be taken into consideration.

On whether the plebiscite would be conducted only for the purpose of determining the boundaries of the autonomous regions rather than asking the people if they want to be part of the region, Mr. Bennagen explained that it would, with respect to the organic charter in relation to the two region mentioned in Section 16 and not in terms of whether regional autonomy should be enshrined in the Constitution.

On whether there should always be compliance with the precondition of a plebiscite to determine whether or not the municipalities within the two regions mentioned in Section 16 would like to become part of the autonomous regions, Mr. Alonto stated that the population should be consulted in all phases of the process of autonomy and those who do not want to be included in the autonomous regions have the right to be excluded therefrom.

Mr. Nollado stated that the will of the electorate of the entire region should be considered. However, he expressed the need for an amendment to make it clear that should a local government unit not want to join the autonomous regions, the will of the people in that unit should be respected.

In addition thereto, Mr. Alonto stated that Congress would have to consult the elective officers within the area to be covered by the autonomous region to be able to determine the boundaries of such autonomous region and the majority votes for purposes of the plebiscite.

In the case of the Cordillera, in reply to the query whether there would be a plebiscite as well as compliance with the precondition for the setting up of an autonomous region, Mr. Bennagen explained that the precondition is for membership in the autonomous region and for defining its extent.

On Section 13, Mr. Nollado clarified his answer to the query on countervailing measures. He stressed that this section provides that the countervailing levy to be imposed by the autonomous region, in case all regions of the country become autonomous, could be classified as additional customs duty under the present Tariff and Customs Code and could also be limited by the national government because such function really pertains to it.

On Mr. Monsod's query why the draft Article does not contain provisions for the creation of regional development councils or a decentralization system other than an autonomous region, Mr. Nollado stated that Congress is given the leeway to organize and define the government structure. He added that amendments in that regard would be welcome at the proper time.

ACKNOWLEDGMENT OF PRESENCE OF GUESTS

At this juncture, the Chair acknowledged the presence in the gallery of students from St. Scholastica's college and the delegation from the Cordillera region.

INTERPELLATION OF MR. NATIVIDAD

On Mr. Natividad's query whether the traditional weaknesses of local governments which are: 1) fiscal inability to support itself; 2) lack of sufficient authority to carry out their duties; and 3) lack of authority to appoint key officials were addressed to by the proposed Article on Local Governments, Mr. Nollado stated that with respect to the first, the taxing powers of local governments were broadened while the second and third weaknesses were addressed to the discretion of Congress to enact a new and more responsive Local Government.

As to how the autonomous regions would be governed, Mr. Nollado explained that the Committee proposes the

creation of a Regional Executive Department with a single chief executive or governor to be assisted by ministers. He added that there would also be an elective regional legislative assembly but the President of the Philippines would still have supervisory power over the autonomous regions and the local government units included therein to see to it that the laws of the country and those pertaining to the particular region are faithfully executed.

On whether the elective officials in autonomous regions would have the power to appoint provincial treasurers, district engineers, provincial health officers and other key officers, Mr. Nollado answered in the affirmative, adding that an amendment to make the provision more emphatic would be welcome at the proper time.

On Section 13, in reply to the query whether the regional legislative assembly could enact laws affecting police forces, Mr. Nollado stated that it could in relation to Section 12(1) and all powers and responsibilities not granted by the Constitution or by law to the autonomous regions would be vested in the national government pursuant to Section 13 which should be interpreted in relation to Section 14.

On whether the specific powers given to local executives relative to police forces would be an exception in the event the Body approves a provision in the Article on General Provisions laying down the guidelines and structure of police forces nationwide, Mr. Nollado stated that there appears to be a conflict between the two reports. He stated that the whether supervision over local police forces should be returned to the local executives could be submitted to the Body for decision. He pointed out, however, that during the public hearings, the local police forces made representation for the return of supervision to the local executives, claiming that professionalization would still be attainable under such setup.

Mr. Natividad, however, maintained that not all of the country's 63 cities and 1,500 municipalities could afford to maintain a decent police organization with its own police academy, crime laboratory, fire department, standard equipment and adequate pay. He pointed out that should the national government withdraw the P2.2 billion budget of the Integrated National Police to support the local police forces, the P200 million across-the-board contribution of cities and municipalities to the fund would not be sufficient to cover all necessary expenses for police matters.

On Mr. Nollado's query as to who would supervise the police forces assigned to particular localities, Mr. Natividad stated that the local executive would participate in local management operations but overall administration relating to appointment, discipline, training and the like would be retained by the national government.

Mr. Natividad stated that in the public hearings of the Committee on General Provisions, the Chief of Staff, representatives of the Ministry of National Defense and of the General Staff of the Armed Forces, and the Chief of the Philippine Constabulary agreed that the mayors and governors should be given supervision over the police forces but that the President's power over them should not be cut off because the police forces would lose P2 billion in budgetary support, thus making the policemen a menace to society rather than its protector.

Mr. de Castro stated that he agreed with the observations of Mr. Natividad and that he did not concur with Mr. Nollado's stand on Section 14. Having been Chairman of the National Police Commission, he stated that he was aware of the dangers of vesting control and supervision in local executives who used the policemen as bodyguards especially during election time. He manifested that he had prepared an amendment on the section which he would propose in due time.

On whether voters of urbanized cities could vote for provincial officials, Mr. Nollado stated that the Committee was expecting an amendment from Mr. Rama, for which reason Mr. Natividad did not pursue his point.

INTERPELLATION OF MR. BENGZON

Mr. Bengzon observed that no provision touches on the decentralization of powers to the provincial, city and municipal governments which Mr. Nollado confirmed, stating that the same was not considered so as to open avenues for the formation of autonomous regions all over the country. He stated, however, that the Committee would welcome any amendment on the matter.

On whether the provinces and municipalities of Region I would remain separate political units should they apply for autonomy, Mr. Nollado answered in the affirmative.

With respect to governors and provincial boards, Mr. Nollado stated that the provincial government would be maintained.

On whether big provinces could apply for autonomy, Mr. Nollado stated that they could.

On the assumption that Ilocos Norte, Ilocos Sur and Abra would apply for autonomy, whether they would be allowed to maintain their own security forces, Mr. Nollado clarified that the security forces should be subject to regulation by the Armed Forces, under the command of the President.

Mr. Bengzon reacted by stating that it would be possible that a gentleman from Hawaii may come back to cut up Region I, to which Mr. Nollado agreed with the observation that should the gentleman adverted to return, he would be arrested for the many crimes he had committed during his incumbency.

On whether the Article would in effect dissolve the Metro Manila aggroupment of towns and cities, Mr. Nollado stated that the existence of Metro Manila is sanctioned by Presidential Decree No. 824, the constitutionality of which was upheld in the cases of Lopez vs. COMELEC and Aralar vs. COMELEC. He stated that under the Transitory Provisions of the 1973 Constitution, all existing decrees would remain in force unless repealed or amended by the forthcoming Congress, for which reason the Metro Manila Commission would continue to exist unless PD No. 824 is repealed. He stated that the Committee did not adopt the U.P. draft which recommended the retention of the metropolitan government, thus, providing no constitutional basis for its continued existence.

Mr. Nollado, however, pointed out that the aggroupment may exist in view of Section 5 which recommends the consolidation or coordination of said units for purposes beneficial to them.

On the rationale of the Committee's decision, Mr. Nollado stated that highly urbanized cities should not form a super-government because of overlapping functions. He observed that the Metro Manila Commission is a white elephant, it being a financial burden to the national government.

On how to deal with the problem of tribal conflicts should autonomy be granted, Mr. Bennagen stated that these tribal conflicts had existed for centuries and that they had been contained. He opined, however, that autonomy would expand the decision making power of the region anent the political, economic and cultural aspects, thus, reducing the possibility of tribal conflicts.

Mr. Bengzon expressed apprehension over the fact that autonomy might lead to tribal rule which would, in effect, accelerate the conflicts among and between tribes, to which Mr. Bennagen stated that the same had been answered earlier.

On whether Section 12 would, in effect, lead towards absolute autonomy, Mr. Nollado stated that it would not.

On what would happen should there be conflict of customs or on the development and exploitation of natural resources, Mr. Bennagen enumerated the possibilities as follows: 1) on customary laws, they would have priority over state laws; 2) on sharing, determination of the amount which would pertain to the autonomous region and

that which would pertain to the national government; and 3) systematic consultation between the national government and the autonomous region without fixing for any given time the ratio of sharing.

On what would prevail should a tribe insist on its own customs and traditions as against the thrust of the national government to develop mountainous mineral areas, Mr. Bennagen stated that should such situation occur, the supervisory powers of the President as well as regional agencies could be invoked. He stated that with regard to the people of Cordillera, the Bangsa Moro and other indigenous communities, they are ruled by traditions to precisely meet the exigencies of such conflicts.

On how to check the abuses of the indigenous communities, Mr. Bennagen stated that the problem has its roots in early history and the same should not be viewed as an existing phenomenon in isolation of the social conditions of the area, to which Mr. Bengzon agreed. Mr. Nollado added that by virtue of the supervisory power of the local chief executive over the police, it is implied that the region would be responsible for the maintenance of peace and order in the area, and should the rebels go against their allegiance to the Republic of the Philippines, the President can call out the army to maintain peace and order therein.

INTERPELLATION OF MR. PADILLA

Mr. Padilla stated that when the Lopez vs. COMELEC case on the legality of the Metro Manila Commission was being discussed, he wanted to volunteer some information on the case of Patricio Tan vs. COMELEC concerning the creation of Negros del Norte. He stated that the prevailing doctrine in the Lopez case was overthrown by the Negros del Norte case. He stated that the dissenting opinions of Justice Vicente-Abad Santos in the case of Paredes vs. Executive Secretary and in the case of the Lopez vs. COMELEC were followed in the Negros del Norte case.

Thereafter, Mr. Padilla adverted to the dissenting opinion of Justice Vicente Abad Santos in the Lopez case decision which assailed the referendum as suffering from a constitutional infirmity because it did not include all the people of Bulacan and Rizal when precisely the political exercise was intended to ascertain if the people of the said provinces were willing to give up some of their towns to Metropolitan Manila. He stated that the ruling at present would be, that when municipalities are severed from a province to form a new province or when any other substantial change is effected in a political unit, the plebiscite must cover not only the municipalities affected but the entire province as well since the dismemberment would not only affect the areas to be constituted into a new province but also the entire province.

Mr. Nollado, commenting on the statement of Mr. Padilla that the Negros case overruled the Lopez case inasmuch as the dissenting opinion in the Lopez case was adopted by the Supreme Court, noted that there is a question on the effect of the overruling of the Lopez case upon the validity of Presidential Decree No. 824. He opined that the constitutionality of PD No. 824 would be upheld based on the law of the case doctrine. He also noted that the Supreme Court decision in the Lopez case did not really hinge on whether or not there was compliance with the plebiscite requirement but that said decision was premised on the fact that pursuant to the 1984 amendment to the Constitution which defined the legislative districts in the Philippines, the Batasang Pambansa acting as a constituent assembly recognized the Metropolitan Manila area as comprising the National Capital Region including its component cities and municipalities. He noted that the legal basis of the decision was not only on compliance with the requirements of a plebiscite but also on the existence of a political unit which had been recognized by the people when they ratified the Ordinance appended to the Constitution, declaring it the National Capital Region.

In reply, Mr. Padilla observed that the decision in the Negros del Norte case did not mention the case of the Metro Manila Commission in particular but stated that "Batas Pambansa Blg. 835 is hereby declared

unconstitutional. The plebiscite of the new province of Negros del Norte, as well as the appointment of the officials thereof, are also declared null and void". He added that the decision did not declare PD No. 824 as unconstitutional because it was not the issue. He stated that the body of the decision made reference to the Lopez decision and followed the dissenting opinion therein.

On the matter of autonomys Mr. Padilla noted that the Body favors local autonomy to local governments whereby the President or the central government would only exercise general supervision, the principal reason being that all national laws, not municipal ordinances, should be faithfully executed as part of the oath of office of the President. He stated that "autonomy" is not clearly defined although he supposed it would mean the decentralization of governmental powers in favor of the local units. Thereafter, he adverted to the case of Villegas vs. Subido, 37 SCRA 1, which decision held that local autonomy refers, more or less, to purely local matters, lending force to the legislative action enlarging the powers of local authorities. He noted that decentralization of government authority means the same thing as local autonomy.

As to whether it is the opinion of the Committee that local autonomy is similar to the right of local governments to self-determination or self-rule or self-government, Mr. Nollado replied that the Committee refer used the term "self-rule". Local autonomy, he stated, would refer to effective decentralization or division of powers. He stressed that the report must be understood in the light of the provision that the President retains supervisory authority over local governments and that the autonomous regions shall be established within the framework of national sovereignty and respect for the territorial integrity of the country.

On the matter of self-determination, Mr. Padilla observed that although states or nations have the right to self-determination, portions of a nation like the Philippines should not have that right as it would lead to fragmentation.

Mr. Bennagen, in reply thereto, stated that he could discuss the relationship between the legal concept of self-determination and its human rights version quite lengthily but that the Body does not have the luxury of time. He stated that he had already outlined the main thrust of the idea of self-determination, as applied to indigenous peoples. He stated that he had discussed self-determination in its historical, political, economic and cultural contexts and that he likewise discussed it within the framework of national unity as well as within the framework of the whole history of the struggles of Bangsa Moro and the Cordillera. He restated the main thoughts of his sponsorship remarks delivered during the previous session. Thereafter, he drew attention to the body of literature in Canada, the United States, Europe and elsewhere which deals with the phenomenon and added that international organizations are increasingly supporting the right of indigenous peoples to self-determination. He stressed that it is not an altogether new phenomenon except to such populations which have been so alienated from indigenous cultures.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 12:29 p.m.

RESUMPTION OF SESSION

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

CONTINUATION OF MR. PADILLA'S INTERPELLATION

On Mr. Padilla's query as to whether the criticism on unitary system means that the Committee does not want a strong centralized government, Mr. Nollado stressed that political power must be shared with the autonomous regions and it is the belief of the Committee that decentralization heightens the access of the people to decision and policy-making processes. He added that at present even the government is moving towards regionalization as shown by the regionalization of certain ministries in the hope that the distribution of political power would redound to economic and social development. He reiterated that the unitary system has been a failure in the country.

Mr. Padilla, however, pointed out that although there are indeed regional offices, this does not mean that the country has a weak central government.

He stressed that local autonomy could be increased but the strength of the central government should not be diminished, if the intention is to unite the entire country. Citing as an example the national economic development program, Mr. Padilla stated that this program encompasses the whole nation and people and it does not contemplate preference for some regions over the others. He then inquired whether the Committee agrees that what the country needs is more local autonomy within a strong, united central government.

Replying thereto, Mr. Nollado clarified that it is the Committee's intent to strengthen the local governments within the framework of national sovereignty without necessarily weakening the supervisory power of the President over them because if all these regions succeed, it must be within the framework of the authority setting up the autonomous regions. He pointed out that under Section 12, autonomous regions would have authority over regional, economic, social and cultural development but there are certain standards set forth by the national government which constitute the guidelines for implementation of the program by the regional government.

Mr. Padilla noted that Section 1 of the Article speaks of provinces, cities, municipalities, barrios and autonomous regions, yet under the same Article there could be no autonomous region unless the territory is well defined and a plebiscite is conducted among the people affected by its creation. He further observed that the Committee seemed to have assumed that there could be autonomous regions without taking into consideration that too many of them would impair the unity and solidarity of the nation under one central government.

Mr. Padilla stated that the 1973 Constitution granted the National Assembly the authority to enact a local government code which resulted in the enactment of Batas Pambansa Blg. 337. If the intention is to grant local autonomy to local governments, Mr. Padilla inquired whether it would be possible to provide that Congress should strengthen the Local Government Code by granting additional powers under the concept of local autonomy.

In reply, Mr. Nollado stressed that the Committee had already decided to set up autonomous regions in fulfillment of the mandate that there should be autonomous regions in Muslim Mindanao and the Cordillera. He maintained that there would be no disunity with the setting up of autonomous regions as shown by the experience in Switzerland, Malaysia and other countries where the federal system obtains.

Mr. Padilla pointed out that Malaysia is composed of several sultanates headed by chieftains who rotate as king or ceremonial presidents but who do not wield power since power is vested in the prime minister and the national assembly. He maintained that there is no parity between the conditions in the Philippines and Malaysia, for which reason he warned that regions other than Muslim Mindanao and the Cordillera may also ask for autonomy and thereby sacrifice the unity and solidarity of the entire nation.

In reply, Mr. Nollado stated that Malaysia is composed of 13 states and each has its own Constitution, legislative

assembly and an executive council headed by a chief minister who is responsible to the legislative assembly.

Additionally, Mr. Ople stated that the particular relevance of Malaysia to the issue at hand has something to do with Sabah and Sarawak in the sense that when these two states joined the new Federation of Malaysia they reserved their sovereignty on labor, immigration and education. He stressed that Sabah and Sarawak, although they are regularly constituted as states, are more autonomous than the other states earlier associated with the federation.

In the case of China, Mr. Ople stated that it has a unitary system but it has extended autonomous status to Singkiang and Tibet and soon to Hongkong when the treaty with the United Kingdom takes effect in 1997. On the other hand, Mr. Ople stated that in Spain there is chronic unrest in the Basque region because of the grant of autonomy to this region which in most ways is different from the Castilian Spanish.

Mr. Padilla pointed out that in the case of the Basques in Spain, they have some characteristics common to some people of Northern France and although they were given autonomy, they wanted to be considered as a separate state. He opined that this should not happen to the Philippines because all are for one nation and one flag without any distinction as to temporary or incidental differences among the islands or regions of the country.

On Section 5 of the report which was lifted from the 1973 Constitution, on Mr. Padilla's query whether the different political units could avail of this provision in the same manner that the Autonomous Region IX has Legislative and Executive Councils, Mr. Nollado described the existing autonomous regions as "cosmetic autonomy". He explained that the first part of Section 5 contemplates a temporary aggroupment only for purposes of coordination of essential services.

On Mr. Padilla's observation that such aggroupment can cover the concept of an expanded autonomy within the local units, Mr. Alonto stressed that the provision on regional autonomy is a mere restatement of what had already been accomplished by virtue of the Tripoli Agreement entered into by former President Marcos and the Moro National Liberation Front in response to the oppression and tyranny that the Muslims had suffered. He pointed out, however, that President Marcos unilaterally established these two autonomous regions without going into the final details of the negotiation. In view thereof, Mr. Alonto stated that these two autonomous regions are existing *de facto* although the former President never intended to establish them as real and genuine autonomous regions. He assured that the Committee's proposal to set up the autonomous regions is not to destroy but to strengthen the unity of the Filipino people.

Mr. Padilla opined that efforts should be directed more towards representation in national offices so that they could be heard and represented. In this regard, he inquired whether the Committee agrees that representation is a solution to the problem of discrimination in the sense that a unified central government is maintained but the local autonomy is strengthened with some representation in the higher levels of national authority.

In reply, Mr. Nollado stated that history has proven that the attempt to integrate members of the indigenous communities into the mainstream of national life had miserably failed. He stressed that the Body should adhere to the provision respecting the customs and traditions of the indigenous communities. He opined that it is about time that the Members got out from the shell of conservatism and obsolescence.

Finally, on the suggestion to delete the provision in Section 14 which would authorize the autonomous regions to establish their own special forces, Mr. Nollado stated that the Committee would insist on its recommendation and it would be up to the Body to decide.

(In the course of Mr. Padilla's interpellation, the President relinquished the Chair to Mr. Rodrigo.)

INTERPELLATION OF MR. BACANI

With respect to the autonomous regions in Mindanao, Mr. Bacani inquired how the provinces therein fared economically, politically and socially since the start of their existence as autonomous regions, in reply to which Mr. Alonto pointed out that instead of improving economically, politically and socially, the de facto autonomous regions in Mindanao have been deteriorating and instead of solving the problem of disunity among Filipinos, they became tools of the Marcos dictatorship to the extent that the Legislative Assembly was not even given the power to legislate. He affirmed that there was actually no experience of local autonomy because local jurisdiction was not exercised. Mr. Nollado added that the former President retained his powers and used the autonomous regions as monitoring agencies, therefore, it was only cosmetic autonomy.

On the composition of the Bangsa Moro, Mr. Alonto explained that of the 13 provinces, seven are predominantly Muslim, but it would depend on Congress which provinces would be included.

On the factors that Congress would consider in the creation of autonomous regions, Mr. Nollado explained that Section 9 enumerates such characteristics that bind a region, namely: common history, geography, culture, language, ethnicity, community and economics, among others, with Congress determining which factors could go together.

On the meaning of the term “communal”, he explained that it refers to certain communities with common language, aspirations, and the like, on the basis of which, the Ilocanos, the Bicolanos, and Tagalogs could respectively ask for local autonomy as they are bound by communal characteristics.

In view of the pronouncements that Islam is both religion and government, and that the Legislative Assembly would enact laws and institutionalize sharia courts and an internal security force, all in accordance with Islam, Mr. Bacani inquired if there would still be separation of church and state with the creation of autonomous regions, in reply to which Mr. Nollado opined that the creation of sharia courts would not impinge on the separation of church and state because such courts would only enforce the customs and traditions in accordance with law.

In this connection, Mr. Abubakar pointed out that there is separation of church and state, with the provincial governor and municipal mayor only attending to legislation in their respective provincial and municipal boards and that the mosques were neither built nor administered by the State but by the Imam who is selected by the Muslim community concerned. He also pointed out that the Regional Legislative Assembly, headed by a Speaker, is composed of provincial representatives.

Mr. Nollado further explained that Islamic law would only be the guiding principle, in the same manner that Catholic government officials are bound by Catholic doctrines in the discharge of their duties, without violating the principle of separation of church and state.

Furthermore, Mr. Alonto opined that since the separation of church and state is contained in the Constitution which is the fundamental law of the land, it would be binding throughout the Philippines without any exception. He stated, however, that the Western concept of separation of church and state would apply differently in Islam because there would be no church to speak of, and as long as the State conforms to the principles of Islam, there would be no violation of the principle of separation of church and state.

On the criteria in the creation of autonomous regions, Mr. Bennagen stressed that they should comply with the general criterion of viability, which are geographic, cultural, linguistic, ethnic, economic and others.

On the possibility that other islands might also ask for autonomy, he stated that studies on archipelagic states disclosed that the island ecological system would not be viable if they are independent units, such that geography

should be considered with ecological, cultural and economic viability in creating autonomous regions. He opined that language would only be secondary since there could be a region with many languages or dialects. He underscored that these considerations would distinguish between mere autonomy and decentralization of power.

INTERPELLATION OF MR. MAAMBONG

In reply to Mr. Maambong's observation that the term "barrio" would be inconsistent with the term "barangay" which had been used in various laws and presidential decrees to refer to the smallest political subdivision, Mr. Nollado stated that the Committee decided to change "barangay" to "barrio" because the latter had been used in ancient documents, titles, surveys and even in names of schools while the presidential decrees and statutes could easily be changed. He pointed out that "barangay", which was derived from the original word "balangay", was just an invention of President Marcos.

As to the subprovinces, Mr. Nollado explained that it is already included in the term "province" because they are just extensions of the provinces, to which Mr. Maambong replied that subprovinces are still being accepted in existing laws.

Considering that Section 10, Article II of the 1973 Constitution provided for local autonomy to the barrios, Mr. Maambong inquired if the proposed Article on Local Governments would not recognize said autonomy for the barrios, in reply to which Mr. Nollado stated that upon initiative of Mr. Bennagen, the Article on the Declaration of Principles and State Policies in fact expanded the concept of local autonomy for the barrios.

On the use of the word "guidelines" in lieu of "limitations", Mr. Nollado explained that limitations may connote restrictions or denial of certain powers like the power to impose tax which the local government units would rather retain based on certain guidelines from Congress. He affirmed that automatic release of the national tax share would mean more local autonomy.

He adverted to the case of *Ceniza vs. COMELEC* wherein the Supreme Court ruled that provinces have no jurisdiction over highly urbanized cities and the residents therein could not vote for provincial officials without violating Section 4(1), Article XI of the 1973 Constitution. On his query as to the concept of citizens' participation in the electoral process in component and highly urbanized cities under the proposed Article, Mr. Nollado stated that voters in cities would be allowed to vote for elective provincial officials regardless of whether these cities are highly urbanized or not. He manifested that Mr. Rama had reserved his right to present an amendment to this effect.

On whether provincial voters would also be allowed to vote for elective city officials, Mr. Nollado opined that reciprocity would not apply, unless there is an amendment to that effect, because as long as the cities remain highly urbanized, their interest in the provinces is indirect.

On whether the criteria of minimum territory, population level, average estimated annual income and the fact that the new creation would not reduce the population and income to less than the minimum realized by the unit to which it formerly belonged would also apply to the creation of regional autonomous regions, Mr. Nollado stated that it would be up to Congress to decide.

INTERPELLATION OF MR. SARMIENTO

Mr. Nollado agreed with Mr. Sarmiento's observation that the Article was formulated principally to give autonomy to two regions.

As to what would constitute the Cordillera autonomous region and the Bangsa Moro autonomous region, Mr.

Bennagen stressed that with respect to the Cordillera, the principal issue is the ancestral land rights and not necessarily existing boundaries. He added that as contemplated, the autonomous region would include Kalinga-Apayao, Mountain Province, Benguet, Baguio City, the Tingian area of Abra, Ifugao, certain areas in Nueva Vizcaya, a little of Pangasinan, La Union and Ilocos Sur. He informed that the people in these areas have been consulted and consultations are still going on and at least 12,000 signatories have already endorsed the idea of a Cordillera autonomous region.

With respect to the Bangsa Moro autonomous region, Mr. Alonto stated that the provinces to be included are still indefinite and that Congress would have to consult first with the elective officials of the provinces and cities in the area.

Mr. Bennagen added that consultations are going on in the cities of Marawi, Zamboanga and Cotabato which consultations had actually started in 1981.

On Mr. Sarmiento's contention that during the public hearings in Visayas and Bicol the people in those areas clamored for a unitary system of government, Mr. Nollado disagreed by stressing that the people he talked to in Naga City are for federalism while those in Davao City are for autonomy. He pointed out that the consultations were limited and it could not be ascertained whether the opinions expressed therein were those of the entire Filipino nation. He also explained that the federalization that he envisions is not to be understood as similar to the United States but as limited to autonomous regions because only through this system would the country progress.

On Section 9, on the query why "shall" was used when the UP Constitution draft as well as the Muslim students' draft of the Constitution merely used "may", Mr. Nollado stated that both words could be interchanged depending on the intention of the provision. He explained that the Committee used "shall" upon the behest of Muslim leaders who appeared before the Committee requesting that the creation of the autonomous region be made mandatory. He further explained that "shall" would, in effect, mean "may" because there are certain requirements to be complied with before an autonomous region may be established.

On whether the two regions to be granted autonomy should be specified instead of the general statement creating autonomous regions in order not to encourage the other regions to clamor for similar autonomy, Mr. Nollado stressed that Congress should be given the leeway to create more autonomous regions. He added that Congress is only mandated to create two autonomous regions in response to the people's clamor for autonomy in these regions.

On the meaning of the phrase "when circumstances so warrant" with respect to the creation of "special forces", Mr. Nollado explained that the term was only qualified as found in the Tripoli Agreement but its existence would have to be first negotiated. He added that the "special forces" are envisioned to be composed of volunteers from the region itself in instances when the need to supplement the police forces with special security forces arises but such special forces in the autonomous regions must exist within the framework of national sovereignty and respect the territorial integrity of the country.

INTERPELLATION OF MS. AQUINO

On whether there is any fundamental conceptual incompatibility between State sovereignty and the power of the autonomous regions, Mr. Nollado stressed that such regions would be established within the framework of national sovereignty in accordance with the principle in constitutional law that sovereignty is indivisible for which reason the President would still exercise supervisory power over these regions. He added that there is no inconsistency between the powers to be granted to autonomous regions and the sovereignty of the Republic of the Philippines.

On Ms. Aquino's contention that fragmentation at this time borders on constitutional adventurism and would be counterproductive rather than productive, Mr. Nollado stressed that there is no constitutional adventurism on the part of the Committee because it merely intended to open the avenue for Congress to create more autonomous regions in the future if it finds that the declaration of the Cordillera and the Bangsa Moro autonomous regions had; in fact, been beneficial to both regions and to the country. He added that Congress could, precisely, create more regions under Section 9 which has been made more flexible to give the Legislature more leeway.

On the justification for the "unwarranted libertinism" in Sections 9 and 10, Mr. Nollado objected to the words "unwarranted libertinism". He stressed that Section 9 merely opens the avenue for Congress to create more autonomous regions but it does not mandate Congress to create such autonomous regions aside from the Cordillera and Bangsa Moro regions.

INTERPELLATION OF MS. TAN

Ms. Tan prefaced her inquiries by stating that the move towards autonomy had been motivated by the dominant minority groups.

In reply to her query whether there is a gauge to determine the genuineness of such move on the basis of the historical and social aspirations of the majority, Mr. Bennagen stated that the range of consultations includes the participation of sectors and analysis of the issues.

On whether the official plebiscite would be adequate, Mr. Bennagen stated that the plebiscite would be done in accordance with the charter to be passed by Congress. He explained that consultations would be a continuing process until such time that juridical personality as an autonomous region shall have been attained.

INQUIRY OF MR. VILLACORTA

Mr. Villacorta observed that the sense of the Committee is for federalism rather than regional autonomy. He stated that the precedents cited was for selective regional autonomy and not for a blanket prerogative that would lead all regions to opt for regional autonomy. He observed that the Committee has broadened the scope of autonomy stating that if the Christian lowland communities would be accorded the same right, it would not correct the imbalance sought to be cured but exacerbate the disparity.

Reacting there to, Mr. Nollado stated that he had considered lengthily the same predicament posed by Ms. Aquino. He stressed that the Constitutional provisions would merely open the avenue for Congress to establish other autonomous regions, other than the Cordillera and Muslim Mindanao.

In reply to the query as to how the imbalance would be corrected, Mr. Nollado opined that the country should be decentralized effectively to attain progress. He stated that the present setup is frustrating to local officials who have to come all the way from their places to Manila only to see their efforts in vain because they could not usually locate the officials they want to talk to.

By way of rejoinder, Mr. Villacorta stated that there are two kinds of decentralization: 1) political decentralization and 2) administrative decentralization. He stated that Mr. Nollado is speaking of administrative decentralization but that some communities would want to have political decentralization such as the Cordillera and Muslim Mindanao. He observed that the main problem is fragmentation in terms of culture, psychology and language, among others.

Mr. Nollado argued that it is only through fragmentation that the country will succeed.

Mr. Bennagen expressed support for the general provision to grant autonomy, stating that the grouping need not

be based on a common province or district or on the identical characteristics of a group. He cited the treatise written by Prof. Albert Blaustein entitled Constitutional Protections for Indigenous Peoples stating that autonomy is the constitutional term of 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.

On the conditions to warrant the establishment of a federal structure or autonomous status, Mr. Bennagen stated that the possibilities are open for some future neglected areas to evolve into autonomous regions.

TERMINATION OF THE PERIOD OF SPONSORSHIP AND DEBATE

On motion of Mr. Rama, there being no objection, the Body closed the period of sponsorship and debate on the Article on Local Governments.

PERIOD OF AMENDMENTS

On motion of Mr. Rama, there being no objection, the Body entered the Period of Amendments on the Article on Local Governments.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:38 p.m.

RESUMPTION OF SESSION

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

Upon resumption, on motion of Mr. Monsod, there being no objection, the Body agreed to go into caucus to enable the Members to discuss some conceptual features of the Article on Local Governments before the amendments would be introduced on the floor.

ADJOURNMENT OF SESSION

In view thereof, on motion of Mr. Maambong, there being no objection, the Chair adjourned the session until nine-thirty in the morning of the following day.

It was 5:14 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on August 13, 1986

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