

R.C.C. NO. 31

VOL. I, July 16, 1986

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/67cef2d3aa23/>

Wednesday, July 16, 1986

OPENING OF SESSION

At 9:33 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Napoleon G. Rama.

Everybody remained standing for the Prayer.

PRAYER

MR. RAMA: Almighty God, there are those who call into question the value of a new constitution as an instrument to change a system and reform society. There are those who scoff at what they believe the exaggerated importance attached to the appointive Constitutional Commission as a solver of the national problems.

So horrible and entrenched are the evils in our system and society that it ought to be obvious that it takes more than words and pious incantation of principles on a piece of paper, however elegantly strung together, to exorcise them.

Have we not perhaps, through our public hearings and press releases, set so lofty a goal. and thus set up the people for so crushing a letdown? Are we making a constitution and building an illusion?

I was beginning, Lord, to have doubts myself about the soundness of the formula of constitution-making as an instrument of national reform and redemption. But I remember that You, too, had a formula for reforming man and saving mankind.

I recall, Lord, that when You decided to re-create man in Your image and recover for him his lost Eden, You sent Your only Son to this world. And the first thing He did was to revise the old laws of Moses and to introduce new doctrines. He wrote a new constitution, now known as the New Testament.

The New Testament, Your new Constitution bearing Your Son's words and ideas, transfigured, ennobled and saved man. Constitution-making was also Your procedure for bringing reform and salvation to mankind.

We ask You now, Lord, let this new Constitution that we are now writing in this hall be the New Testament for the Filipino. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Monsod Present

Alonto Present[*] Natividad Present

Aquino Present Nieva Present

Azcuna Present[*] Nollado Present

Bacani Present Ople Present

Bengzon Present[*] Padilla Present

Bennagen Present Quesada Present

Bernas Present Rama Present

Rosario Braid Present Regalado Present

Brocka Present[*] Reyes de los Present

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present[*] Romulo Present

Concepcion Present Rosales Present

Davide Present Sarmiento Present

Foz Present Suarez Present[*]

Garcia Present[*] Sumulong Present

Gascon Present Tadeo Present[*]

Guingona Present Tan Present

Jamir Present Treñas Present

Laurel Present Uka Present

Lerum Present[*] Villacorta Present

Maambong Present

The Secretariat is in receipt of official advice of absence of Commissioner Tingson.

Commissioner Villegas is on official mission.

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, I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDENT: Is there any objection to the motion of the Assistant Floor Leader?

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Just a minor correction on page 49 wherein it is stated: "Mr. de los Reyes noted that the normal practice." I did not say "normal" but I said "usual" because it is an abnormal practice to break the continuity of service, but it is the usual practice. My correction is to change "normal" to USUAL.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; let the proper correction be made.

APPROVAL OF JOURNAL

MR. CALDERON: Madam President, I move for the approval of the Journal of the previous session, as corrected.

THE PRESIDENT: Is there any objection to the motion of the Assistant Floor Leader to dispense with the reading of the Journal of the previous session and to approve the same? (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 Resolutions on First Reading, Communications and Committee Report, the President making the corresponding references:

PROPOSED RESOLUTIONS ON FIRST READING

Proposed Resolution No. 524, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON THE RIGHTS AND ROLE OF PEOPLE'S ORGANIZATIONS.

Introduced by Hon. Garcia.

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Proposed Resolution No. 525, entitled;

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ON THE RIGHT OF ALL CITIZENS TO DECENT SHELTER.

Introduced by Hon. Garcia.

To the Committee on Citizenship, Bill of Right, Political Rights and Obligations and Human Rights

Proposed Resolution No. 526, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE FOR THE SYNCHRONIZATION OF NATIONAL ELECTIONS.

Introduced by Hon. Guingona.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 527, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE PROVIDING FOR NATIONAL/ LOCAL ELECTIONS IN 1987.

Introduced by Hon. Guingona.

To the Committee on Amendments and Transitory Provisions.

Proposed Resolution No. 528, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE TO RESTRICT INSTANCES WHEN THE STATE MAY ENGAGE IN BUSINESS ENDEAVORS.

Introduced by Hon. Guingona.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 529, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE RATIFICATION OF THE DRAFT CONSTITUTION.

Introduced by Hon. Guingona.

To the Committee on Amendments and Transitory Provisions.

COMMUNICATIONS

Letter from the Philippine Chamber of Health signed by Dr. Eduardo R. de la Cruz, proposing provisions on health in the preamble, declaration of principles and state policies, bill of rights, and general provisions.

(Communication No. 204 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Deputy Minister Carmelo C. Noriel, Ministry of Labor and Employment, submitting the position paper of the ministry on the subjects of profit-sharing, workers' participation in decision-making and compulsory arbitration.

(Communication No. 205 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from the honorable Commissioner Ahmad Domocao Alonto, transmitting Special Resolution No. 6-27, series of 1986, of Daaron Nadwatol Islamia, petitioning the Commission to include the rights of the Muslims of Southern Philippines for an autonomous government.

(Communication No. 206 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Communication from Mr. Willie B. Dazo of 14 Don Matias Street, Don Antonio Heights, Quezon City, proposing the inclusion of a provision on the right to bear arms.

(Communication No. 207 — Constitutional Commission of 1986)

To the Committee Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Campaign for a Sovereign Philippines signed by Ms. Ma. Socorro I. Diokno, Ms. Loretta Ann P. Rosales, Messrs. Butch Abad and Efren C. Moncupa, and Rev. Elmo Gideon Manapat, calling for a ban from Philippine soil of all military bases and nuclear weapons and power plants.

(Communication No. 208 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Jose Mari C. Gonzales, Officer-in-Charge, Bureau of Broadcasts, Ministry of Information, proposing the inclusion of a provision on the right to bear arms.

(Communication No. 209 — Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Ms. Delia Rarela-Barcelona for the Association for Non-Traditional Education. recommending the consideration of the need for alternative learning systems, along the lines of non-traditional education.

(Communication No. 210 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from TransProResources Corporation signed by Rene S. Santiago proposing a general provision for a balanced budget.

(Communication No. 211 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from General Fidel V. Ramos, Chief of Staff, Armed Forces of the Philippines, submitting the NAFP position on the Constitution.

(Communication No. 212 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Ms. Lily A. Rubio of the Ministry of Information, NCR, endorsing a proposal of Mr. Federico R. Co of Anahaw Street, Project 7, Quezon City, for the grant of old age pension to 70 years old and above citizens.

(Communication No. 213 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from the Philippine Chamber of Commerce and Industry signed by Mr. Aurelio Periquet, Jr., submitting proposals on private enterprise.

(Communication No. 214 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

COMMITTEE REPORT

Committee Report No. 29 submitted by the Committee on Human Resources.

Re: EDUCATION

Proposed Resolution Nos. 77, 102, 104, 451 (Davide), 114, 276, 303, 471 (Quesada), 106, 130, 416, 441 (Guingona), 134, 162, 163, 206, 166, 387 (Rosario Braid), 168 (Sarmiento), 220, 335 (Villacorta), 252 (Tingson), 278 (Nolledo), 289 (Bacani), 311 (Gascon), 417, 418 (Tan), 327 (Suarez)

ARTS AND CULTURE

Proposed Resolution Nos. 71 (Brocka), 299 (Tingson)

SCIENCE AND TECHNOLOGY

Proposed Resolution Nos. 177 (Rosario Braid), 222 (Quesada)

NATIONAL LANGUAGE

Proposed Resolution No. 286 (Uka)

CULTURAL COMMUNITIES

Proposed Resolution Nos. 298, 300, 301 (Tingson), 346, 465 (Bennagen).

Sponsored by Hon. Villacorta, Uka, Guingona, Quesada, Rigos, Brocka, Bennagen, Tan, Rosario Braid, Gascon and Treñas.

To the Steering Committee.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED
RESOLUTION NO. 469

(Article on the Commission on Audit)

PERIOD OF AMENDMENTS

MR. RAMA: I move that we continue the consideration on Second Reading of Committee Report No. 20 on Proposed Resolution No. 469 as referred by the Committee on Constitutional Commission and Agencies, entitled: RESOLUTION PROVIDING FOR THE PROVISIONS ON THE COMMISSION ON AUDIT IN THE NEW CONSTITUTION.

I request that the sponsors, Commissioners Foz, Monsod and Jamir, be recognized and that they take their seats in front.

THE PRESIDENT: Is there any objection that we continue the consideration on Second Reading of Committee Report No. 20 on Proposed Resolution No. 469? (Silence) The Chair hears none; Commissioners Foz, Jamir, and Monsod may proceed to sponsor the resolution.

MR. RAMA: Madam President, I ask that Commissioner Nolledo be recognized to interpellate.

THE PRESIDENT: Commissioner Nolledo is recognized.

MR. NOLLEDO: Thank you, Madam President.

MR. FOZ: Madam President, we request that Commissioners Monsod, de Castro, Regalado and the other members of the Committee join us in front.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 9:48 a.m.

RESUMPTION OF SESSION

At 9:53 am., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: For clarification, yesterday there was a motion to close the period of sponsorship and debate on the resolution of the Committee on Constitutional Commissions and Agencies, referring to the provisions on the Commission on Audit. In other words, we are now in the period of amendments.

I ask that Commissioner Nollado be recognized his amendment.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

Before I formally present my amendment, I would like to ask some preliminary questions because it may not be necessary for me to present the amendment, if the answers are satisfactory.

THE PRESIDENT: The Commissioner will please proceed.

MR. NOLLEDO: Thank you, Madam President.

I notice that on Section 2 (1), lines 27 to 36, the Committee mentioned certain bodies, institutions or entities that are subject to audit on a postaudit basis. I am just wondering that instead of mentioning postaudit basis, can we not amend this section in such a way that it will read as follows: "The Commission on Audit shall have the power and authority to examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the government, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporations and their subsidiaries and such nongovernmental entities receiving subsidy or equity, directly or indirectly, from or through the government."

I recommend this amendment because I think the entities or institutions maintained on lines 27 to 30 really fall under the category of "government." I refer to the constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution, as well as autonomous educational institutions.

I would like to suggest that "on a postaudit basis" be deleted because the time may come when circumstances may warrant the need for a preaudit. Instead, we concentrate on the word "audit" on line 22 as covering all these entities. I would like also to delete lines 34 to 36 which read: "which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity," because that is very restrictive. Suppose there is no such requirement but there is a public fund invested in such nongovernmental entities, then these may not be required to submit to such audit. It is understood that whether the entities are governmental or nongovernmental, if public funds are involved the Commission on Audit should not be deprived the right as well as the power to audit those funds. Before I formally present my amendment, may I know the sentiments of the members of the Committee?

MR. MONSOD: Maybe we should explain why the Committee made an exception on these institutions and made them on a postaudit basis, because normally COA audit is both on preaudit and postaudit basis. This decision was really very difficult on the part of the Committee, for it involved discussions, as well as a very lengthy testimony by the Commission on Audit. What we are trying to achieve here is some sort of balance.

There are certain companies or institutions within the government itself which by the nature of their functions would be hampered by preaudit procedures. The question now is: Would limiting the COA to postaudit procedures not allow abuses on the part of these institutions?

The situation is this: There is always a trade-off on issues like this; and one of the questions we posed to the Commission on Audit was this: "Suppose a P10-billion government corporation, let us say National Steel, where the board of directors is composed of people both from the public and private sectors, people of integrity and experience, and so on, decides to purchase a certain equipment worth, say, P2 million through public bidding, what is the role of the COA"? Their answer was: "In this case, we can inquire not only whether the expenditures were being made for the purpose, but also into the merits of the decision itself of the board of directors."

So what we are trying to avoid is a situation where with the presence of preaudit procedures we may have a little dictator above the board of directors of a company whose normal operations require more than the P500,000 ceiling of the COA which is exempt from preaudit according to present COA rules.

In a corporation like that, most of the day-to-day operations is more than P500,000 and we have one man from the Commission on Audit who earns a middle level salary who has, in effect, the power to supersede the decision of a board over an expenditure of the corporation. The expenditure itself may not be anomalous, but a two- or three-day delay in operation is very expensive. This man is like an investigator in the Bureau of Internal Revenue. And even if the expenditure is valid, the corporation may be very greatly tempted to cater to a preaudit of the COA just to enable it to purchase the equipment on time.

As a matter of fact, if we look at the performance of the COA at this time, perhaps over 80-90 percent of the anomalies unearthed were on a postaudit basis. The reason there were so many anomalies during the Marcos' years is not the absence of a preaudit or a postaudit function. As a matter of fact, there was a preaudit function, but it was a whole system to defraud and mispend that was put in place — that prevented the COA from the exercise of its normal functions.

Under normal circumstances, a postaudit is a very effective tool and deterrent, but we must balance it against the normal operations of corporations that must necessarily involve huge amounts of money on a day-to-day basis.

We had, in fact, a discussion with COA Chairman Guingona and it came out that there are possibilities where the internal control system of a company may be so deficient that it does not function normally; so it is hard to catch the anomaly on a postaudit basis.

We told Chairman Guingona that we would be prepared to accept an amendment where, if the COA found that the internal control system was inadequate, it could take such necessary and appropriate measures, including the use of temporary preaudit procedures, to correct the system's deficiencies in order to protect the funds of the government.

This is the procedure which we feel would serve as a good balance between the normal operations of such institutions and the watchdog function of the Commission on Audit.

MR. NOLLEDO: Madam President, while the Commissioner's reasons appear laudable, cannot those circumstances or instances stated by him be covered by the rules and regulations of the Commission on Audit

under Section 2 (2) of the committee report?

MR. MONSOD: It is possible to do that. As a matter of fact, certain representations have been made. But I have some personal experience on this. What the COA decided in the case of companies called "behest companies," private companies taken over by government, was to exempt such companies from preaudit for two years.

In other words, it is a time relief, rather than addressing itself to the problem of impairing the normal operations of the company. So, we felt, and I believe, that we have some understanding with the Commission on Audit on this, that as long as the Commission on Audit were given special powers to look into the operations of a company to correct the deficiency and to initiate temporary measures, including preaudit, this could be a good compromise.

MR. NOLLEDO: One last question, because I have arranged with Commissioner Guingona that he will present the amendment. Section 2 (1) on lines 34 to 36 reads:

. . . which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity.

Suppose there is no law requiring such kind of audit or the granting institution fails to lay down the condition contemplated in this statement, will the government funds invested in these nongovernmental entities be exempt from audit?

MR. MONSOD: May I answer that in this manner. We feel that this puts the responsibility on the granting institution or any government financial institution to put appropriate conditions for the granting of such subsidy or equity. Let me give the Commissioner an example: The COA auditors were asked in our hearing what exactly this right entailed. We gave an example wherein the Philippine National Bank or the Development Bank of the Philippines put a 10-percent equity in Capitol Development Bank which, in turn, invested a 10-percent equity in a certain company. We asked what right the COA had with respect to the company, since that is already a "grandfather equity relationship," an equity relationship by the nature of an equity investment that we do not know exactly where the money is. It is fungible. We put money into a company and very seldom is there a specific destination of funds. The COA said it would look into the expenditure of funds. The COA said it would look into the expenditure of the government money, but there is no way it could because it is an equity investment. We asked the COA what they would do, if there was no specific destination of funds, and its representatives said they would look into the entire operations of the company which involved the 10-percent investment. By COA rules it can now go into each and every function and operation of that company. We are afraid that in allowing each and every peso of the government in a company, we effectively discourage all kinds of business operations. In any case, the PNB or the DBP has its own auditors, and the Central Bank has a right to investigate and review the operations of financial institutions and their portfolio. Not only that, COA, an automatic audit, would be a stifling environment within which business might not flourish or operate.

So we have to be careful in trying to correct the abuses of the past because we could create new forms of abuses or opportunities for abuse. We cannot swing from one extreme to the other. And if the situation was very bad in the past few years, it was because the system was not allowed to function, not because there were no functions or rights available to such institutions as the COA.

MR. NOLLEDO: Thank you, Madam President.

MR. GUINGONA: Madam President.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: May I just make a few remarks before I introduce my proposed amendments.

THE PRESIDENT: The Commissioner will please proceed under the five-minute rule.

MR. GUINGONA: My understanding with the Floor Leader is that because we have not asked for reconsideration, we might be given a little more time, Madam President.

THE PRESIDENT: Please proceed, Commissioner Guingona.

MR. GUINGONA: Thank you, Madam President.

I could see that the intention expressed by Commissioner Nollado and the misgivings expressed by Commissioner Monsod have their own merits. But I suppose we are all agreed that public funds should be protected, and the protection that is usually done is through audit. In fact, we created a Commission on Audit to serve as the watchdog or guardian of the people's money. Commissioner Monsod gave an example of the so-called "grandfather equity" wherein a 10 percent equity was involved. First of all, I would like to cite again that I believe there is that logical and reasonable presumption that public officials will perform their duties in accordance with law. In other words, they will not abuse the exercise of their functions. Of course, if it is only a P10-thousand equity, it would appear ridiculous for the Commission on Audit to go after it and waste its time sending people to such a corporation or entity just to make sure the people's money is protected, but I would like to invite attention that the equity could run into millions.

Anyway, under my proposed amendments there will be safeguards, Madam President, and because of these we might wish to delete this provision that Commissioner Nollado had spoken about, the requirement that there should be granting of authority by the law or by the charter that grants the equity.

Before I proceed, Madam President, I would like to invite attention to the wording of Section 2 (1) (b) which refers to autonomous educational institutions. Perhaps, instead of "autonomous educational institutions," we change it to AUTONOMOUS STATE COLLEGES AND UNIVERSITIES so as not to leave any doubt that we are referring to government or public educational institutions, not to private educational institutions. The whole Section 2, as amended, shall now read as follows. "The Commission on Audit shall have the exclusive power and authority to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including on a postaudit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution, (b) AUTONOMOUS STATE COLLEGES AND UNIVERSITIES, (c) government-owned or controlled corporations and their subsidiaries, and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government: PROVIDED, HOWEVER, THAT IN THE INSTANCES ENUMERATED WHERE THE INTERNAL CONTROL SYSTEM OF THE AUDITED AGENCIES IS INADEQUATE, THE COMMISSION MAY ADOPT SUCH MEASURES INCLUDING TEMPORARY OR SPECIAL PREAUDIT AS ARE NECESSARY AND APPROPRIATE TO CORRECT THE DEFICIENCIES."

First of all, I want to find out if the Committee will accept my proposed amendments.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: Madam President, because of the length of the amendments, may we be given two minutes to confer with the proponent because we just want to make sure we understand all the phrases he has introduced.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:15 a.m.

RESUMPTION OF SESSION

At 10:35 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: Yes, the Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Madam President, after consultation with the honorable members of the Committee, I have amended my proposed amendment by deleting the word EXCLUSIVE because I was made to understand that the Commission on Audit will still have the preponderant power and authority to examine, audit and settle.

THE PRESIDENT: By the way, for the information of the Commissioners, we are discussing the amended committee report on the constitutional commissions, particularly on the Commission on Audit, this two-page paper, copies of which were circulated the day before yesterday.

Commissioner Guingona may proceed.

MR. GUINGONA: Thank you, Madam President.

Section 2 (1) will now read as follows: "The Commission on Audit shall have the power and authority to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to the government, or any of its subdivisions, agencies, or instrumentalities. including on a postaudit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution, (b) autonomous STATE COLLEGES AND UNIVERSITIES, (c) government-owned or controlled corporations and their subsidiaries, and (d) such nongovernmental entities receiving subsidy or equity, directly or indirectly, from or through the government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity: PROVIDED, HOWEVER, THAT WHERE THE INTERNAL CONTROL SYSTEM OF THE AUDITED AGENCIES IS INADEQUATE, THE COMMISSION MAY ADOPT SUCH MEASURES INCLUDING TEMPORARY OR SPECIAL PREAUDIT AS ARE NECESSARY AND APPROPRIATE TO CORRECT THE DEFICIENCIES."

THE PRESIDENT: What does the Committee say?

MR. MONSOD: Will the Commissioner please continue because there is another sentence to complete that section.

MR. GUINGONA: All right, I will finish the whole Section 2 (1): "It shall keep the general accounts of the government and, for such period as may be provided by law, preserve the vouchers pertaining thereto."

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Except for a minor correction on line 27 which is to put a comma (,) after "including," the Committee accepts the amendments.

MR. GUINGONA: May I know the purpose of the comma (,) after "including."

MR. MONSOD: The purpose of the comma (;) is merely to clarify the intent of the Article, Madam President.

THE PRESIDENT: In other words, the purpose is that on a postaudit basis the enumerations are included?

MR. MONSOD: Yes, Madam President.

MR. GUINGONA: I thank the members of the Committee.

Thank you, Madam President.

THE PRESIDENT: The Committee has accepted the amendments.

Is there any objection to the proposed amendments of Commissioner Guingona? (Silence) The Chair hears none; the amendments are approved.

Is there any other proposed amendment?

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. ROMULO: I think, Madam President, Commissioner Davide is ahead of Commissioner Ople for the amendments.

MR. OPLE: I was made to understand by the Floor Leader that I would immediately follow Commissioner Guingona, unless this is now subject to correction by the Floor Leader.

MR. ROMULO: Commissioner Davide yields his position. Commissioner Ople may go ahead.

MR. OPLE: Thank you.

Madam President, the proposed amendment deals with the same section. I have consulted with the Committee beforehand, and in this respect, I would like to state that I am associating myself with the other proponents of the proposed amendment: Commissioners Guingona, Nollado and Rama. We would like to propose an amendment on Section 2 (1), line 22, which is to delete "and" between "power" and "authority" and to insert the words AND DUTY between "authority" and "to," so that the sentence will read: "The Commission on Audit shall have the power, authority AND DUTY to examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property," et cetera.

MR. MONSOD: The Committee accepts the amendment.

THE PRESIDENT: Is there any objection to the proposed amendment of Commissioner Ople to insert the words AND DUTY, which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. OPLE: Thank you, Madam President.

We propose to add a new section which is Section 3, to prevent future abuses, especially during times of a national emergency when martial law powers are assumed.

THE PRESIDENT: It will be Section 3.

MR. OPLE: I propose to add a new section on line 9, page 2 of the amended committee report which reads: NO LAW SHALL BE PASSED EXEMPTING ANY ENTITY OF THE GOVERNMENT OR ITS SUBSIDIARY IN ANY GUISE WHATEVER FOR ANY INVESTMENTS OF PUBLIC FUNDS FROM THE JURISDICTION OF THE COMMISSION ON AUDIT.

May I explain my reasons on record.

We know that a number of entities of the government took advantage of the absence of a legislature in the past to obtain presidential decrees exempting themselves from the jurisdiction of the Commission on Audit, one notable example of which is the Philippine National Oil Company which is really an empty shell. It is a holding corporation by itself, and strictly on its own account. Its funds were not very impressive in quantity by underneath that shell there were billions of pesos in a multiplicity of companies. The PNOC — the empty shell — under a presidential decree was covered by the jurisdiction of the Commission on Audit, but the billions of pesos invested in different corporations underneath it were exempted from the coverage of the Commission on Audit.

Another example is the United Coconut Planters Bank. The Commission on Audit has determined that the coconut levy is a form of taxation; and that, therefore, these funds attributed to the shares of 1,400,000 coconut farmers are, in effect, public funds. And that was, I think, the basis of the PCGG in undertaking that last major sequestration of up to 94 percent of all the shares in the United Coconut Planters Bank. The charter of the UCPB, through a presidential decree, exempted it from the jurisdiction of the Commission on Audit, it being a private organization.

So these are the fetuses of future abuse that we are slaying right here with this additional section.

May I repeat the amendment, Madam President: NO LAW SHALL BE PASSED EXEMPTING ANY ENTITY OF THE GOVERNMENT OR ITS SUBSIDIARY IN ANY GUISE WHATEVER FOR ANY INVESTMENTS OF PUBLIC FUNDS FROM THE JURISDICTION OF THE COMMISSION ON AUDIT.

THE PRESIDENT: May we know the position of the

Committee on the proposed amendment of Commissioner Ople?

MR. JAMIR: If the honorable Commissioner will change the number of the section to 4, we will accept the amendment.

MR. OPLE: Gladly, Madam President.

Thank you.

MR. DE CASTRO: Madam President, point of inquiry on the new amendment.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you.

May I just ask a few questions of Commissioner Ople.

Is that not included in Section 2 (1) where it states: "(c) government-owned or controlled corporations and their subsidiaries"? So that if these government-owned and controlled corporations and their subsidiaries are subjected to the audit of the COA, any law exempting certain government corporations or subsidiaries will be already unconstitutional.

So I believe, Madam President, that the proposed amendment is unnecessary.

MR. MONSOD: Madam President, since this has been accepted, we would like to reply to the point raised by Commissioner de Castro.

THE PRESIDENT: Commissioner Monsod will please proceed.

MR. MONSOD: I think the Commissioner is trying to avoid the situation that happened in the past, because the same provision was in the 1973 Constitution and yet somehow a law or a decree was passed where certain

institutions were exempted from audit. We are just reaffirming, emphasizing, the role of the Commission on Audit so that this problem will never arise in the future.

THE PRESIDENT: Is Commissioner de Castro satisfied?

MR. DE CASTRO: Just one more comment, Madam President.

We are making a "hate charter," as one of those newspapers stated, because we keep reminding ourselves that these institutions were already covered by this same provision and yet a presidential decree was passed knowing it was unconstitutional, and nobody questioned it. But when we are in a free country, somebody will question it as unconstitutional.

Thank you, Madam President.

THE PRESIDENT: Are we now ready to vote?

MR. MONSOD: Madam President, may I just make one comment.

THE PRESIDENT: The Commissioner will please proceed.

MR. MONSOD: Earlier Commissioner Guingona, in withdrawing his amendment to add "EXCLUSIVE," made a statement about the preponderant right of the COA.

For the record, we would like to clarify the reason for not including that word. First, we do not want an Article that would constitute a disincentive or an obstacle to private investment. There are government institutions with private investments in them, and some of these investors — Filipinos, as well as in some cases, foreigners — require the presence of private auditing firms, not exclusively, but concurrently. So this does not take away the power of the Commission on Audit. Second, there are certain instances where private auditing may be required, like in the listing in the stock exchange. In other words, we do not want this provision to be an unnecessary obstacle to privatization of these companies or attraction of investments.

Thank you, Madam President.

THE PRESIDENT: May we request Commissioner Ople to please repeat his proposed amendment.

MR. OPLE: Thank you, Madam President.

The new section will now be SECTION 4 which states: NO LAW SHALL BE PASSED EXEMPTING ANY ENTITY OF THE GOVERNMENT OR ITS SUBSIDIARY IN ANY GUISE WHATEVER FOR ANY INVESTMENTS OF PUBLIC FUNDS FROM THE JURISDICTION OF THE COMMISSION ON AUDIT.

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

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

I have some proposed amendments on Section 1(1). The first is on line 7 which consists in the insertion between the words "Bar" and "for" of the following: WHO HAVE BEEN ENGAGED IN THE PRACTICE OF LAW. On

line 8, after the word "years" add a comma (,) and the following: AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE POSITION IN THE ELECTION IMMEDIATELY PRECEDING THEIR APPOINTMENT. Lines 7 and 8 will now read as follows: "experience or members of the Philippine Bar WHO HAVE BEEN ENGAGED IN THE PRACTICE OF LAW FOR at least ten years, AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE POSITION IN THE ELECTION IMMEDIATELY PRECEDING THEIR APPOINTMENT."

THE PRESIDENT: What does the Committee say with respect to the amendments on lines 7 and 8?

MR. JAMIR: The Committee accepts, Madam President.

THE PRESIDENT: The Committee has accepted both amendments of Commissioner Davide.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I just want to make a comment on the prohibition regarding the appointment of former candidates for election which we also discussed last night. I wonder why we have to repeat this all over again.

MR. DAVIDE: Madam President, that refers to the Commission on Civil Service. It was not included in the Common Provisions, and that is exactly the reason we introduce this to be uniform with the requirement for appointment to the civil service.

MR. MAAMBONG: It was my understanding that here was also a prohibition in the Common Provisions.

MR. DAVIDE: There is none.

MR. MAAMBONG: In that case. Madam President.

THE PRESIDENT: ARE we now ready to vote on the amendments proposed by Commissioner Davide which have been accepted by the Committee?

For the information again of the Commissioners, will the Commissioner please repeat his amendments.

MR. DAVIDE: Yes, Madam President. On line 7, between the words "Bar" and "for," insert the following: WHO HAVE BEEN ENGAGED IN THE PRACTICE OF LAW.

On line 8, after "years," add the following: a comma (,) and the phrase AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE POSITION IN THE ELECTION IMMEDIATELY PRECEDING THEIR APPOINTMENT.

THE PRESIDENT: Is there any objection to the proposed amendments of Commissioner Davide which have been accepted by the Committee? (Silence) The Chair hears none; the amendments are approved.

MR. DAVIDE: Just a matter of perfecting amendments on Section 1. I move to delete the letter "s" in the word "appointments" on line 4 and the word "and" before "certified" on line 5.

MR. JAMIR: The Committee accepts, Madam President.

THE PRESIDENT: The perfecting amendments have been accepted.

Is there any objection to the proposed amendments? (Silence) The Chair hears none; the amendments are approved.

MR. ROMULO: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

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

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, members of the Committee, I would like to introduce an amendment on Section 1 (2), line 11, by inserting between "President" and "for" the phrase WITH THE CONSENT OF THE COMMISSION ON APPOINTMENTS. And on lines 12 to 13, delete the sentence which reads: "Appointments to the Commission need no confirmation."

Last night, Madam President, a parallel amendment on the provisions on the Civil Service Commission was voted favorably by the body, so I submit this now to the Committee.

MR. MONSOD: Madam President, we yield to the judgment of the body on this, and we accept the proposed amendment as decided already by the body yesterday in the case of the Civil Service Commission

MR. MAAMBONG: Thank you, Madam President.

THE PRESIDENT: Is there any objection to the proposed amendments which have been accepted by the Committee? (Silence) The Chair hears none; the proposed amendments are approved.

MR. ROMULO: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

MR. ROMULO: I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, the proposed amendment would be on Section I (2), more particularly on line 17. It is a very minor amendment, Madam President, which is only the deletion of the word "there- after" after "vacancy."

THE PRESIDENT: What does the Committee say?

MR. JAMIR: We accept, Madam President

THE PRESIDENT: The amendment has been accepted.

Is there any objection to the proposed amendment of Commissioner Davide? (Silence) The Chair hears none; the amendment is approved.

Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, on page 1, line 19, between the words "appointed" and "in," insert the words OR DESIGNATED to be consistent with yesterday's amendment. The whole sentence will read: "In no case shall any Member be appointed OR DESIGNATED in a temporary or acting capacity."

THE PRESIDENT: What does the Committee say?

MR. JAMIR: The amendment is accepted, Madam President.

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

MR. ROMULO: Madam President

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Madam President.

For simplicity's sake, may I propose the following amendments by deletion. On page 2, line 3, delete the words "and extent," so it would read: "to define the scope of its audit and examination." On line 4, after the word "formulate," delete the words "and establish" and also the words "and methods" after "techniques," so it would read: "formulate the techniques." On line 7, delete the words "unnecessary" and "excessive" and add the word AND after "irregular," so it would read: "or disallowance of irregular AND extravagant expenditures." On line 8, add the word AND after "funds," so it would read: "government funds AND properties."

MR. JAMIR: Will the Commissioner please repeat his amendments?

MR. SARMIENTO: As amended, Section 2 (2) will now read: "The Commission shall have the exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, formulate the techniques required therefor, and promulgate accounting and auditing rules and regulations including those for the prevention or disallowance of irregular AND extravagant expenditures or uses of government funds AND properties."

Thank you, Madam President.

THE PRESIDENT: What does the Committee say?

MR. JAMIR: Will the Commissioner please explain to this body the reasons for his amendments?

MR. SARMIENTO: As I mentioned, the words deleted are redundant, and I suggest these amendments for simplicity and economy so that we will have a brief but comprehensive Constitution.

MR. MONSOD: Madam President, I believe these words were used in the previous Constitution and one of our apprehensions is that the deletion of these might be interpreted as excluding them.

MR. SARMIENTO: Madam President, if that is the intent, to repeat what had been previously stated in the old Constitution, may I know then the meaning of "scope" and "extent," "formulate" and "establish," "techniques" and "methods" which are one and the same thing?

MR. MONSOD: No, Madam President, we are referring to the words "unnecessary" and "excessive" on line 7, because these words have different meanings from "irregular" and "extravagant." But with respect to line 3, we agree with the Commissioner that "and extent" is a surplusage.

MR. SARMIENTO: Thank you, Commissioner Monsod.

MR. MONSOD: On line 4, "and establish" is also a surplusage but we are not sure about "and methods" because "techniques" and "methods" have different connotations and so with "unnecessary" and "excessive."

MR. SARMIENTO: I think the words "excessive" and "extravagant" are one and the same thing.

MS. AQUINO: Madam President.

THE PRESIDENT: Yes, Commissioner Aquino is recognized.

MS. AQUINO: I would like to interpose an objection to the proposal of Commissioner Sarmiento. The concepts

"irregular, unnecessary, excessive and extravagant" were at one time or another the subject of controversial jurisprudence. In other words, these are not just accepted doctrines. These have been subjected to thorough debates in the Supreme Court. So I propose the retention of these concepts to preserve the doctrine of the jurisprudence laid down on these matters.

MR. SARMIENTO: With that manifestation of Commissioner Aquino, I withdraw my amendment by deletion of the words "unnecessary" and "excessive."

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Madam President, before Commissioner Sarmiento withdraws his amendment, may I ask him whether or not he will agree to an addition to further strengthen this provision?

MR. SARMIENTO: I will agree.

MR. OPLE: So that in the string of adjectives, it will now read like this: "irregular, unnecessary, excessive, extravagant AND UNCONSCIONABLE expenditures or uses of government funds and properties."

MR. SARMIENTO: I welcome the amendment by addition.

MR. OPLE: Thank you.

MR. PADILLA: Madam President.

THE PRESIDENT: Will Commissioner Padilla care to speak on the amendment of Commissioner Sarmiento?

MR. PADILLA: Yes, on this point, I am glad to hear the objection of Commissioner Aquino which was accepted by the proponent. I would like to state that the words "irregular, unnecessary, excessive or extravagant expenditures" appeared both in the 1935 and 1973 Constitutions. The words "irregular" and "extravagant" are objectionable because the preposition used in the previous Constitution was "or," which is an alternative, whereas, the word "and" is cumulative. So that if the phrase used is "irregular and extravagant," we have to satisfy both requirements.

THE PRESIDENT: May the Chair be clarified by Commissioner Sarmiento. Is he agreeable now to retain the words "unnecessary, excessive"? MR. SARMIENTO: Yes, to retain the words "unnecessary, excessive" and to add the amendment by addition as suggested by Commissioner Ople.

THE PRESIDENT: Will Commissioner Monsod please repeat what has been accepted by the Committee.

MR. MONSOD: I believe Commissioner Regalado has a suggestion. Perhaps after that we can formulate the entire provision.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: With respect to line 4, the Committee has accepted the amendment of Commissioner Sarmiento to delete the words "and establish" and to retain the word "formulate.?' I think it should be the other way around, that we should retain "establish" and delete "formulate and," because one cannot establish unless, in the first place, he has already formulated the techniques. But one can formulate without establishing. So lines 3 and 4 should read: "the scope of its audit and examination, establish the techniques and methods, ' and so forth.

THE PRESIDENT: What does Commissioner Sarmiento say?

MR. SARMIENTO: I have no objection, Madam President.

THE PRESIDENT: Will the Commissioner please read this particular paragraph with his amendments.

MR. SARMIENTO: Madam President, the entire Section 2 (2) reads: "The Commission shall have the exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations including those for the prevention or disallowance of irregular, unnecessary, excessive, extravagant OR UNCONSCIONABLE expenditures or uses of government funds and properties."

THE PRESIDENT: The amendments have been accepted by the Committee. Is there any objection to the proposed amendments of Commissioner Sarmiento? (Silence) The Chair hears none; the amendments are approved.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The proposed amendment is on the same paragraph, subject matter of the Sarmiento amendment. On Section 2, page 2, line 5 of the amended draft, insert PRESCRIBE before the word "and," then AN between the words "promulgate" and "accounting" and SYSTEM RELATIVE THERETO between "accounting" and "and." On line 6, between the words "the" and "prevention" insert DETERMINATION AND, so that lines 5 and 6 would now read as follows: "required therefor, PRESCRIBE and promulgate AN accounting SYSTEM RELATIVE THERETO and auditing rules and regulations including those for the DETERMINATION AND prevention:"

THE PRESIDENT: Does the Committee accept?

MR. MONSOD: Madam President, we will have a problem prescribing and promulgating an accounting system in all of these institutions because that is a very massive undertaking on the part of the COA. Actually, the COA accounting and auditing rules would be the framework within which the particular enterprises can design their own systems.

MR. DAVIDE: I will withdraw the amendment consisting of the word PRESCRIBE, but I will insist on the rest.

MR. MONSOD: So how will lines 5 and 6 now read?

MR. DAVIDE: They will read as follows: "required therefor, and promulgate AN accounting SYSTEM RELATIVE THERETO and auditing rules and regulations including those for the DETERMINATION AND prevention."

MR. MONSOD: I think this is a question of interpretation of what "accounting system" means. If we are talking about general principles, we have no objection. But if the COA will go into an individual type of accounting system for different types of enterprises and it might . . .

MR. DAVIDE: The COA will only prescribe the general principles. MR. MONSOD. If the understanding is that the COA will only prescribe the general principles, we want to know the reaction of the Committee.

For the record, Madam President, the COA is really more involved in the auditing function, not in the setting up of an accounting system.

MR. DAVIDE: At any rate, the auditing function must be very related to the accounting system.

MR. MONSOD: Yes, as long as we go about general principles, we will accept the amendment.

MR. DAVIDE: That is the meaning, Madam President.

THE PRESIDENT: Will Commissioner Davide please read again lines 5 and 6?

MR. DAVIDE: Lines 5 and 6, Madam President, will now read: "required therefor, and promulgate AN accounting SYSTEM RELATIVE THERETO and auditing . . ."

MR. MONSOD: If we say "promulgate accounting systems relative thereto," is it plural or singular?

MR. DAVIDE: It is singular, AN accounting SYSTEM." "Accounting systems would be a business. To be in line with the interpretation, I will amend again, Madam President.

MR. MONSOD: Can we use PRINCIPLES, ". . . promulgate accounting PRINCIPLES RELATIVE THERETO"?

MR. DAVIDE: I yield to the proposal.

THE PRESIDENT: So it is "accounting PRINCIPLES."

MR. DAVIDE: Yes, "accounting PRINCIPLES RELATIVE THERETO."

MR. DE LOS REYES: Madam President, will the opponent of the amendment accept an amendment?

MR. DAVIDE: May I hear the amendment?

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: My amendment reads: "and ADOPT accounting PRINCIPLES and PROMULGATE auditing rules and regulations."

MR. REGALADO: We cannot promulgate a system.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 11:14 a.m.

RESUMPTION OF SESSION

At 11:18 am., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. DAVIDE: Madam President, after the explanation given by the Committee, I am prepared to withdraw, as I hereby withdraw, the proposed amendment, but I will have another on Section 3.

THE PRESIDENT: Excuse me, just to clarify. Are there no more amendments on Section 2?

MR. DAVIDE: On Section 3, line 11, substitute the word "Congress" with the word NATIONAL ASSEMBLY.

THE PRESIDENT: Is that accepted?

MR. FOZ: Yes, Madam President.

THE PRESIDENT: Is there any objection to the proposed amendment to change the word "Congress" to NATIONAL ASSEMBLY? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: On line 15, Madam President, insert the following after corporations: AND THEIR SUBSIDIARIES AND SUCH NONGOVERNMENTAL ENTITIES RECEIVING SUBSIDY OR EQUITY FROM OR THROUGH THE GOVERNMENT.

THE PRESIDENT: Is that accepted by the Committee?

MR. DAVIDE: The amendment on line 15 is: after corporations, add the following: AND THEIR SUBSIDIARIES AND SUCH NONGOVERNMENTAL ENTITIES RECEIVING SUBSIDY OR EQUITY FROM OR THROUGH THE GOVERNMENT

MR. MONSOD: Madam President, that phrase is not complete. The Commissioner might want to complete it, because what has been accepted by the Committee also includes a phrase which are required by law. . ." Is the amendment still subject to that phrase?

MR. DAVIDE: Yes, that particular phrase should be inserted in the amendment.

MR. MONSOD: Which one? The phrase "which are required by law" or the "granting institution to submit to such audit as a condition of . . ."?

MR. DAVIDE: The amendment reads: AND THEIR SUBSIDIARIES AND SUCH NONGOVERNMENTAL ENTITIES RECEIVING SUBSIDY OR EQUITY FROM OR THROUGH THE GOVERNMENT, then add the phrase that was supposed to be added.

MR. MONSOD: That is the original phrase, Madam President. So, if we agree that the qualifying phrase for that is: "which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity," then we do not have to put it there.

MR. DAVIDE: That is really the qualifying phrase because this is just a consequence of the previous provision regarding nongovernment entities receiving subsidy or equity from or through the government.

MR. AZCUNA: Madam President.

THE PRESIDENT: Will that be clear enough?

MR. AZCUNA: Madam President.

THE PRESIDENT: Yes, Commissioner Azcuna is recognized.

MR. AZCUNA: I wonder if Commissioner Davide will accept an amendment to his amendment wherein we will just say: AND SUCH NONGOVERNMENTAL ENTITY SUBJECT TO ITS AUDIT, instead of repeating the whole qualifying phrase.

MR. DAVIDE: That is better; I yield to it.

THE PRESIDENT: That is the last stand. Is that accepted now?

MR. DAVIDE: We accept that, Madam President.

THE PRESIDENT: Is there any objection to the stated amendment of Commissioner Davide as amended by Commissioner Azcuna and which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: On line 17, Madam President.

THE PRESIDENT: Please proceed.

MR. DAVIDE: Insert the following after the word "effectiveness": AND THE PROSECUTION OF PARTIES FOUND LIABLE FOR MALFEASANCE AND MISFEASANCE IN THE USE OF FUNDS OR PROPERTIES HEREIN REFERRED TO.

MR. FOZ: Is Commissioner Davide then giving the Commission on Audit the power to directly prosecute?

MR. DAVIDE: No, this is just among the recommendations, because it is the first entity to discover malfeasance or misfeasance.

MR. REGALADO: Would Commissioner Davide agree to just delete the words "found liable," because they appear to be a prejudgment or a conviction.

MR. DAVIDE: Yes, I would accept the amendment of Commissioner Regalado. It will now read: AND THE PROSECUTION OF PARTIES LIABLE FOR MALFEASANCE AND MISFEASANCE IN THE USE OF FUNDS AND PROPERTIES HEREIN REFERRED TO.

MR. RODRIGO: Madam President.

THE PRESIDENT: Yes, Commissioner Rodrigo is recognized.

MR. RODRIGO: On this report not only to the President but to the National Assembly, what does the National Assembly have to do with the prosecution of cases?

MR. DAVIDE: May I respond to it, Madam President?

THE PRESIDENT: Please proceed.

MR. DAVIDE: Under this section, the report is to be submitted to the President and the National Assembly. The report may contain recommendation of measures necessary to improve their efficiency and effectiveness. At the same time, its report may also contain a recommendation for the prosecution of parties. So, at least it will have some persuasive effect in the matter of the prosecution of individuals liable for malfeasance and misfeasance in the use of funds or properties as may be found by the Commission.

MR. RODRIGO: Madam President, this is a yearly report. The recommendation for the prosecution of those guilty of violating COA rules can be done periodically. That does not have to be done at one time in a yearly report both to the President and Congress.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Yes, Commissioner Maambong is recognized.

MR. MAAMBONG: By way of additional comment to the statement of Commissioner Rodrigo, in that report I would assume that names of persons who have not even been convicted of any crime are included in the report. And I find something wrong in that procedure, Madam President.

MR. DAVIDE: Precisely, Madam President, that is the idea because if we leave the matter of prosecution to the prosecution arm of the government, then there may be several cases which could no longer reach the prosecution stage because of undue pressure and influence. But here, we have a commission which, through the process of determination, inquiry and verification, will determine whether or not malfeasance or misfeasance has been committed and, therefore, it must somehow initiate the prosecution or induce or encourage the prosecution arm to make the necessary prosecution.

I submit to a vote.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: We regret, Madam President, we cannot accept it because we assume that it is inherent in the powers of the Commission on Audit to make such recommendations. Secondly, it need not be, as Commissioner

Rodrigo has said, at the end of the year. And third, the names of those not yet found guilty of malfeasance or misfeasance need not be included in the report. For these reasons, we regret we cannot accept it and we throw it to the body for decision,

THE PRESIDENT: Does Commissioner Davide insist on a vote?

MR. DAVIDE: Yes, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: May I make a short observation?

The phrase "malfeasance and misfeasance" is rather vague and general because the Revised Penal Code does not use those words with regard to the crimes committed by public officers in Article VII, Title 7, which are really the crimes against public administration. So, I would suggest that the words "malfeasance and misfeasance" be eliminated or be clarified.

MR. DAVIDE: Madam President, the words "malfeasance and misfeasance" have a settled jurisprudential meaning already. And this would be broader instead of limiting the scope of the provision to a specific provision of the Revised Penal Code which may be amended at any time.

VOTING

THE PRESIDENT: The Chair believes that the body is now ready to vote on the proposed amendment of Commissioner Davide.

As many as are in favor of the proposed amendment of Commissioner Davide, please raise their hand. (Few Members raised their hand.)

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

The results show 5 votes in favor and 22 against; the amendment is lost.

MR. DAVIDE: And, finally, Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I move for the deletion of the entire Section 4 on lines 19 and 20.

THE PRESIDENT: Will the Commissioner please explain?

MR. DAVIDE: The reason is that this is already included in the Common Provisions.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: We accept, Madam President.

THE PRESIDENT: The proposed deletion of Section 4 has been accepted by the Committee.

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

MR. ROMULO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. ROMULO: I ask that Commissioner Guingona be recognized.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

With the permission of the sponsor, I would like to propose two new provisions. The first would read as follows: PRIVATE AUDITING FIRMS MAY NOT EXAMINE OR AUDIT ACCOUNTS PERTAINING TO THE REVENUE AND RECEIPTS OF, AND EXPENDITURES OR USES OF FUNDS AND PROPERTY OWNED OR HELD IN TRUST BY OR PERTAINING TO THE GOVERNMENT OR ANY OF ITS SUBDIVISIONS, AGENCIES OR INSTRUMENTALITIES.

Madam President, I would, therefore, exclude the four agencies and entities that are enumerated under Section 2, paragraph 1. May I be allowed to explain my proposed amendments?

THE PRESIDENT: Please proceed.

MR. GUINGONA: As we can see, this proposed amendment will only concern itself with government funds which belong to the government or any of its subdivisions, agencies or instrumentalities; in other words, funds belonging to us, to the people.

When I proposed the word "exclusive" earlier, it was objected to and I agreed to remove it because of the explanation of Commissioner Monsod that there are some foreign investors who would require auditing by private auditing firms. And he also mentioned a law, I think, which would require the stock exchanges to be audited, I suppose, by private auditing firms. But the way I understood it these are the exceptions. What I want to establish is a general rule. I do not believe private auditing firms should be allowed to look into government funds and government accounting records.

And, secondly, I think that if we allow this, there will be an unnecessary duplication of work. If there is no pressing need as mentioned by Commissioner Monsod, I do not see why we have to ask knowing that anyway the Commission on Audit is not precluded from doing the auditing work. I do not see why we have to ask a private auditing firm to audit government funds as a general rule; first, because it is duplicative and, second, it is going to be very costly. The auditing firms that they will get will either charge their usual charges which will be quite high under the present conditions or they may give the government special discount, in which case, such an act might be open to suspicion.

I would like to reiterate the fact that I am not including the agencies and entities that are enumerated under Section 2, paragraph 1. I am asking that private firms should not be made to put their hands into the government file and examine our books. I do not think we should open the books of the government to private entities unless there is an urgent or practical need for it as mentioned by Commissioner Monsod.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: The assumption of the proponent is that there will never be a need or a requirement in entities other than those enumerated. We mentioned those entities because we did not want to go into very lengthy expositions. But it is also a fact that even government agencies, instrumentalities and subdivisions sometimes borrow money from abroad. And if we are at all going to preclude the possibility of any concurrent auditing, if that is required, and insist that it is only exclusively the government which can audit, we may be unnecessarily tying their hands without really accomplishing much more than what we want. As long as the COA is there, and the COA's power cannot be eliminated by law, by decree or anything of that sort, then the government funds are protected.

As far as the question of fees is concerned, this is always negotiable. Besides, if one talks about auditing fees,

these are governed by certain regulations within the auditing profession, beyond which auditing firms cannot go. Furthermore, the government can always refuse to pay unconscionable fees. So, that matter really is not that relevant. But I think what we want to insist on is that there should be some flexibility so that a procedural requirement does not impede a substantive transaction as long as COA is there.

MR. GUINGONA: Madam President, I do not know if I mentioned it, but the proposed provision that I have would be qualified by the phrase AS MAY BE PROVIDED BY LAW. Right now, the only cases that Commissioner Monsod has mentioned are the two that I have also mentioned. Assuming that there are other cases, this can be brought to the attention of our legislature. But I object to the general allowance for private firms to come in and get involved in examining the funds, the books, the accounts of our government. I think the funds of our government, as much as possible, should be kept for review and examination by the government people.

MR. ROMULO: Madam President, Commissioner Colayco would like to be recognized to oppose the amendment.

THE PRESIDENT: On this particular matter also?

MR. ROMULO: Yes, Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: I concur with the opinion voiced by Commissioner Monsod. So, I will not take the trouble of repeating it.

Thank you, Madam President.

MR. GUINGONA: May I know if the Committee accepts the proposed provision?

MR. MONSOD: We regret, Madam President, that we cannot accept the proposed provision.

THE PRESIDENT: Shall we put it to a vote?

MR. GUINGONA: Yes, Madam President.

May I be allowed to read it again?

THE PRESIDENT: Please do so.

MR. GUINGONA: The provision reads: PRIVATE AUDITING FIRMS MAY NOT EXAMINE OR AUDIT ACCOUNTS PERTAINING TO THE REVENUE AND RECEIPTS OF, AND EXPENDITURES OR USES OF FUNDS AND PROPERTY OWNED OR HELD IN TRUST BY OR PERTAINING TO THE GOVERNMENT OR ANY OF ITS SUBDIVISIONS, AGENCIES OR INSTRUMENTALITIES EXCEPT AS MAY BE PROVIDED BY LAW.

VOTING

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

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

The results show 6 votes in favor and 27 against; the proposed amendment is lost.

Is there any other amendment?

MR. GUINGONA: Yes, Madam President. The amendment reads: NONGOVERNMENTAL ENTITIES

RECEIVING SUBSIDY OR EQUITY EQUIVALENT TO 2/3 OF THEIR PAID-UP CAPITAL, DIRECTLY OR INDIRECTLY, SHALL BE SUBJECT TO TEMPORARY OR SPECIAL PREAUDIT IN CASES WHERE THE INTERNAL CONTROL SYSTEM OF THE SAID ENTITY OR ENTITIES IS INADEQUATE.

May I please explain?

THE PRESIDENT: Please proceed.

MR. GUINGONA: The reason for this is, there is a saying in Pilipino which says: "Aanhin pa ang damo kung patay na ang kabayo." Here we are contemplating an instance where a lot of government money, running into billions, will be going into the so-called nongovernmental entities. The amount involved could be very, very large, Madam President. The Committee has expressed the view that the irregularity, extravagance, unconscionability could be discovered in postaudit. By that time, the money of the people, which is passed on to these nongovernmental entities, would have gone into the pockets of those running the nongovernmental entities. There is no recourse, especially if they are able to do what other people have done who have gone abroad. Who will be left holding the bag? It will be the government or ultimately it will be the people.

I agree with Commissioner Monsod. Where the government puts P10,000 in a nongovernmental entity, certainly, I would not insist that there should be a preaudit. I am emphasizing temporary or special preaudit subject to specific conditions. But when the money runs to millions and even perhaps billions, why should our government, through the COA which is the watchdog of the people's money, not be allowed to look into, examine and audit the accounts of these nongovernmental entities?

May I just mention, Madam President, that according to the records of COA, about 70 percent of the cooperatives under the National Energy Administration (NEA) are losing; many of them are subsidized up to 90 percent to 100 percent while we have, for example, a nongovernmental entity which is 100 percent subsidized by the people's money. Why should we prevent the government, through the COA, to look into the accounts to prevent or to stop any anomaly before the anomaly is done? I feel that this is part of the work of the COA; it is part of the duty mentioned by Commissioner Ople for them to look into this so that the people's money will be protected. I agree with Commissioner Monsod that when the amount is insignificant or small, we do not go into the trouble of looking into the accounts, but not when the money involved is big, because some of these entities are subsidized up to 100 percent, even though they are called banks or nongovernmental entities. For all practical purposes, they are already government corporations because they are using 100 percent of government money, the people's money.

MR. MONSOD: May we ask the honorable Commissioner what he considers as a minimum size. Is it a percentage or an amount?

MR. GUINGONA: If the sponsor wishes to put it in percentage, I can amend my proposed provision to 60 percent.

MR. MONSOD: No, I am just asking a question.

MR. GUINGONA: I am answering it.

MR. MONSOD: I see. So, it can be an institution or a group or an organization with a P15,000 asset or equity and the government has P9,000 in it or 60 percent, and the government would, under the proposal, be able to have preaudit rights. Preaudit means that a COA auditor has to be a resident in the company.

MR. GUINGONA: No, I was talking of temporary or special audit.

MR. MONSOD: A special preaudit.

MR. GUINGONA: And as we have discussed yesterday, temporary or special preaudit will not require a resident auditor. May I explain what I mean by temporary?

MR. MONSOD: Madam President, may I just say that earlier we had an amendment on Section 21 in which we sat down and worked out an amendment which includes the subject matter that the Commissioner is now proposing to be covered by another section. May I ask if he is now proposing an amendment to the amendment that was agreed upon between him and the-Committee?

MR. GUINGONA: No, I made a reservation. I said I will propose a provision. That was, in effect, what I was saying in order for us to be finished, because it was taking us such a long time. We did not want to delay our proceedings. I accepted all that the Committee wanted, but I also wanted to bring to the floor of this body my proposals and to leave it to the wisdom of our Commissioners whether they will accept it or not.

I still insist, Madam President. If the honorable members of the Committee would like to change the percentage, I am willing. We can say 70 percent or 80 percent, but obviously, when a governmental entity is 100 percent subsidized, as in the case of these cooperatives, I do not see why there will be a problem about temporary preaudit. They will only be concerned if they have something to hide. We do not have anything to hide that is why this Commission has a resident auditor. I do not see why the business people are so afraid of being audited, if they have nothing to hide, especially if they are using government money, say up to 100 percent. There is no justification to my mind. Why? This could lead to anomalies. In order to escape the auditing by the government, these government entities like the banks can channel their money into a nongovernmental entity which will do the anomaly that they cannot or are afraid to do.

THE PRESIDENT: Commissioner Natividad is seeking recognition; he is recognized.

MR. NATIVIDAD: Thank you, Madam President.

Will the Gentleman yield to a few questions?

MR. GUINGONA: Willingly.

MR. NATIVIDAD: My impression is that, as a general rule, we have postaudits. Is that correct?

MR. GUINGONA: That is right.

MR. NATIVIDAD: In the amendment, we find that the Commissioner is proposing preaudits in certain cases.

MR. GUINGONA: In certain cases only, not in the strict sense of the word that there will be a resident auditor. No, I am only suggesting a temporary or special preaudit.

MR. NATIVIDAD: Yes, but what is the basis? Is it because of the exposure of the government in that agency such as equity or is it because of indications that there are irregularities that he shifts from postaudit to preaudit or have both? I want to clarify this. What makes the Commissioner shift to a temporary preaudit? Is it the equity of the government or is it the probability of irregularity?

MR. GUINGONA: There are two requirements under my proposed provision. First is that we have a substantial amount. I say 60 percent. Some people may say 70 percent, 80 percent, or even 100 percent. The second requirement is that the internal control system of that agency is inadequate. In other words, it is established that there is an irregularity.

MR. NATIVIDAD: The COA will make the conclusion that the internal control is weak. Is that right?

MR. GUINGONA: The COA will have the discretion but this could be challenged in court.

MR. NATIVIDAD: Yes. But the proponent has said that one of the bases for shifting to preaudit is that the internal control is weak. Is that right?

MR. GUINGONA: I beg your pardon?

MR. NATIVIDAD: The internal control is weak.

MR. GUINGONA: It is inadequate. By this, I mean, for example in the case of the COMELEC, before the present administration, there have been cases actually documented where there had been overpricing in the acquisition of ballots up to 50 percent of the actual purchase price.

MR. NATIVIDAD: Then what exactly is the basis for imposing preaudit?

MR. GUINGONA: It is to prevent the money from being diverted because once it is diverted, it is very hard to run after that money.

MR. NATIVIDAD: Yes, we realize that is the objective.

MR. GUINGONA: Yes, Madam President.

MR. NATIVIDAD: I am asking at what point in time and what the reason is for imposing preaudit, because the general principle is postaudit.

MR. GUINGONA: Yes.

MR. NATIVIDAD.: All of a sudden, the proponent says it is now preaudit. I would like to clarify in my mind why from now on, we will adopt preaudit in this agency? What is the reason?

MR. GUINGONA: If the Commissioner will allow me, there are two controls here: first, as I said a while ago, the decision could be challenged in court; and, secondly, this inadequacy is not only a suspected inadequacy in the sense that the inadequacy is something that is already known in effect. We are aware of the fact that there were many irregularities but we cannot do anything about them because our Commission on Audit was being dictated not to inquire into the accounts.

MR. NATIVIDAD: What is the concept of "temporary" here?

MR. GUINGONA: This would mean that there will be some kind of a spot auditing. It will only be for a temporary period.

MR. NATIVIDAD: In terms of period of time, does the Commissioner have any perception on how long it will stay because we have a little worry about the word "temporary." Sometimes temporary is the most permanent thing that comes around.

THE PRESIDENT: May the Chair interrupt the two Gentlemen. I would like to inquire from the Committee. Would the Committee need some time to go over the proposed amendment of Commissioner Guingona?

MR. MONSOD: Madam President, we just want to mention that the provision, as now worded, already allows for the National Assembly on the granting institution to provide the details and conditions to govern the situation being discussed. But we find it difficult to accept a provision like this in the Constitution because many of these cooperatives may only have P10,000. So, P6,000 is 60 percent of the capital and we do not want to get involved in the details of this kind of classification since that can be provided in the law anyway. The law may require that all of these institutions, organizations and so on, may submit to audit as it deems fit. We feel that this is properly a case for legislation by the National Assembly.

MR. ROMULO: Madam President, can I move for a vote? There has been sufficient discussions. We have three more speakers for the other amendments.

VOTING

THE PRESIDENT: Let us then put the proposed amendment of Commissioner Guingona to a vote.

As many as are in favor of the proposed amendment of Commissioner Guingona, please raise their hand.

Does the Commissioner want to read the proposed section?

MR. GUINGONA: The proposed amendment reads: NONGOVERNMENTAL ENTITIES RECEIVING SUBSIDY OR EQUITY EQUIVALENT TO SIXTY PERCENT OF THEIR PAID-UP CAPITAL PROVIDED THAT THE AMOUNT INVOLVED IS NOT LESS THAN ONE MILLION, DIRECTLY OR INDIRECTLY, SHALL BE REQUIRED TO BE SUBJECT TO TEMPORARY OR SPECIAL PREAUDIT WHERE THE INTERNAL CONTROL SYSTEM OF SUCH ENTITIES IS INADEQUATE.

Madam President, I have added the phrase PROVIDED THE AMOUNT INVOLVED IS ONE MILLION OR MORE.

THE PRESIDENT: Is Commissioner Gascon seeking recognition?

MR. GASCON: Basically, I wonder if we can suspend the session so we can consider this more seriously.

MR. ROMULO: There is a motion to vote on the floor, Madam President.

THE PRESIDENT: There is a motion to vote; I am sorry.

MR. MONSOD: Madam President, it seems that the proposal is being amended by instinct. We are talking about the Constitution.

May we submit to a vote?

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment which has been read by Commissioner Guingona, please raise their hand. (Few Members raised their hand.)

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

The results show 6 votes in favor and 25 against; the amendment is lost.

MR. ROMULO: Madam President.

THE PRESIDENT: Do we hear a motion to suspend because there will be a mass?

MR. ROMULO: There are only two more speakers with very short amendments and the pangs of hunger make one brief. So, may I suggest that we continue.

THE PRESIDENT: Please proceed.

MR. ROMULO: Just two more amendments. They will be very brief, I assure everybody.

May I ask that Commissioner Sarmiento be recognized?

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. ROMULO: Since the President kept us here late last night, I am exercising the same privilege.

THE PRESIDENT: I agree.

MR. SARMIENTO: Madam President, I will withdraw my amendment and reserve it this afternoon.

THE PRESIDENT: Is there any other amendment?

SUSPENSION OF SESSION

MR. ROMULO: Madam President, I move to suspend the session.

THE PRESIDENT: The session is suspended until two-thirty in the afternoon.

It was 11:59 a.m.

RESUMPTION OF SESSION

At 2:48 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. ROMULO: Madam President, I request that Commissioner Sarmiento be recognized.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, may I be allowed to make two amendments? Lines 37 to 38, Section 2 of Article XII, reads: "of the Government and, for the period as may be provided by law, preserve the vouchers pertaining thereto." May I make an amendment by adding the words AND OTHER EVIDENCE SUPPORTING EVERY FINANCIAL TRANSACTION OF THE GOVERNMENT INCLUDING THE ACQUISITION AND DISPOSITION OF PROPERTIES. I am proposing this amendment because the word "vouchers" is too limited. I think there are other documentary evidences other than vouchers which are to be preserved by the government, so I am suggesting the addition of the words I mentioned. Will the Committee agree?

THE PRESIDENT: May I have that again? What line?

MR. SARMIENTO: Line 38, Madam President, reads: "by law, preserve the vouchers pertaining thereto."

THE PRESIDENT: Yes.

MR. SARMIENTO: After the word "thereto," I ask that the following words be added: AND OTHER EVIDENCE SUPPORTING EVERY FINANCIAL TRANSACTION OF THE GOVERNMENT INCLUDING THE ACQUISITION AND DISPOSITION OF PROPERTIES.

THE PRESIDENT: Is that acceptable to the Committee?

MR. SARMIENTO: It will support every financial transaction of the government including the acquisition and disposition of properties.

MR. SUAREZ: Madam President, may I propose an amendment?

MR. MONSOD: Madam President, may we just answer the proponent of the amendment?

THE PRESIDENT: We will just wait for the action of the Committee.

MR. SUAREZ: No, this is the proposed amendment to the amendment.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Would the proponent consider the insertion of the words AND OTHER SUPPORTING PAPERS between "vouchers" and "pertaining"?

MR. SARMIENTO: I will accept the amendment.

MR. SUAREZ: Thank you.

THE PRESIDENT: So that line 38 will read now . . .

MR. SARMIENTO: It will read: "by law, preserve the vouchers AND OTHER SUPPORTING PAPERS pertaining thereto."

THE PRESIDENT: Is that accepted?

MR. MONSOD: So, it will just be that? We accept the amendment.

MR. SARMIENTO: We have one last amendment, Madam President.

THE PRESIDENT: Just a minute, has the Committee accepted?

MR. MONSOD: Yes, Madam President.

THE PRESIDENT: The Committee has accepted; let us put it first to a vote before we proceed to the next amendment.

Is there any objection to the amendment proposed by Commissioners Sarmiento and Suarez? (Silence) The Chair hears none; the amendment is approved.

MR. SARMIENTO: My second amendment, Madam President, is on page 2, line 9. After the word "properties," may I suggest that we add the following words: THE COMMISSION SHALL BE EMPOWERED TO ISSUE SUCH OTHER RULES AND REGULATIONS IN PURSUANCE OF ITS OBJECTIVES AND TO IMPOSE IN ACCORDANCE WITH LAW, REASONABLE PENALTIES FOR THE VIOLATION THEREOF.

It will be noted that line 5 refers to the promulgation of accounting and auditing rules and regulations including those for the prevention or disallowance of irregular, unnecessary, excessive, extravagant or unconscionable expenditures. I suggest that we add the provision that I just read.

Will the Committee accept the amendment?

MR. REGALADO: Madam President, when Commissioner Sarmiento speaks of sanctions that may be imposed in accordance with law by the Commission, is he including penal sanctions or purely administrative sanctions?

MR. SARMIENTO: Purely administrative sanctions.

MR. REGALADO: Unless otherwise, we might run afoul of the rules of the Judiciary.

MR. MONSOD: Madam President, can we not assume that the powers are inherent since COA can promulgate the rules necessary for it to meet its objectives or fulfill its task? Does that not come with the granting of the power?

MR. SARMIENTO: The sponsor is referring to the power to promulgate accounting and auditing rules to embrace this other . . .

MR. MONSOD: No, such other rules and regulations that are necessary for it to accomplish its purpose. Is that not inherent in the commission?

MR. SARMIENTO: Then I submit, Madam President.

MR.-REGALADO: And, besides, under the election laws, there are already both penal and administrative sanctions. We might have two sets of rules and laws imposing different sanctions. Why do we not just leave it to the Election Code? No, no. We leave it to the law itself.

MR. SARMIENTO: So, with that explanation, Madam President, I withdraw my amendment.

THE PRESIDENT: The proposed amendment is withdrawn.

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

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

Actually, I have two proposed amendments, but if I secure the necessary clarification from the sponsors, I may desist from pressing the proposed amendments, so may I address some clarificatory questions to the distinguished sponsors?

May I call the sponsor's attention to Section 2, paragraph 1, line 22, wherein the word "audit" was used; and on line 27, the phrase "including, on a postaudit basis" was used.

Is my understanding correct that the postaudit basis for the constitutional commissions, autonomous educational institutions, government-owned or controlled corporations and their subsidiaries or such nongovernmental entities receiving subsidy or equity, etcetera, would preclude a regular audit like a preaudit?

MR. MONSOD: Madam President, the enumeration is for institutions that will be subject to postaudit but would not include preaudit except for the amendment that we accepted this morning, which was discussed with Chairman Teofisto Guingona of the COA and presented by Commissioner Serafin Guingona, where the internal control system of the audited agencies is inadequate, referring to all of the enumerated agencies. Then, the COA may adopt such measures including temporary or special preaudit as are necessary and appropriate to correct the deficiency. Precisely, we accept the fact that there are situations in which the COA must be allowed to enter any audited agency and implement measures to make sure that the deficiencies are corrected.

MR. SUAREZ: Madam President, if we exempt these enumerated bodies from the regular audit, are we not legislating on a class basis? Are we not indulging in class legislation?

MR. MONSOD: A postaudit is also a regular audit. We are not engaging in class legislation because we are merely acknowledging certain distinctions with respect to these bodies which would make it difficult for them to operate normally if a preaudit procedure were to be applied to them, but subject, however, to that exception that we accepted this morning which we felt was well made.

MR. SUAREZ: Why should the sponsor venture a supposition that conducting a preaudit, insofar as these bodies enumerated here are concerned, would hamper their respective efficiencies?

MR. MONSOD: This morning, we tried to explain the reasons why the committee report contained this recommendation. In the case of the constitutional bodies which have been accorded fiscal autonomy, it would defeat the purpose of the fiscal autonomy if these were allowed. In the case of the government or state educational institutions, in our opinion, it is also a case where a postaudit would be sufficient but a preaudit, as we have seen in many cases, would hamper the operations in the education system. This is very important because sometimes the disbursements are not made on time, as has happened in the past, and there is enough safeguard anyway when the auditor conducts a postaudit. By the way, postaudit does not mean that it happens only once a year. We can

have postaudit system regularly and we can have a resident auditor conducting a postaudit. With respect to the government-owned or controlled corporations and their subsidiaries, we took cognizance of the fact that in these institutions, the normal operations involve amounts in excess of P500,000 which are exempt from preaudit. And as we said early this morning, there are instances where the expenditure may be completely regular. In other words, these are regular expenditures and a mere delay is enough to cost a lot of money.

On instances where the regular board has already approved an expenditure — and we have many examples of that — we are afraid of COA instituting as a superboard that has the right to pass on disbursements that have gone through the normal board procedures a purchase which is above P500,000 by corporations that have a turnover of P2 billion or P1 billion a year. The presence of the postaudit is a deterrent by itself and the reason why this was abused during the past years was not because there was no right of pre-or postaudit. As a matter of fact, preaudit and postaudit were there, but the system was not allowed to operate normally. It is not a question of the function that is available, but that it was not allowed to operate normally. And our assumption was, if the COA can go in there at any time and correct deficiencies and have all the measures available in order to make sure that it functions normally, then we can have a safeguard; at the same time, we are not opening up the possibility of an arbitrary auditor in a corporation that could hamper its normal operations.

MR. SUAREZ: One final clarificatory question, Madam President. Does the sponsor have any objection in constitutionalizing the phrase "postaudit basis" under this proposed section?

MR. MONSOD: We had thought and discussed that, and with the proviso where we allow the COA to come in when necessary, we feel that there are enough safeguards and powers given to the; COA to fulfill its duty and obligation. Thank you, Madam President.

MR. SUAREZ: Thank you; and with those clarifications on record, we will refrain from submitting the two proposed amendments we have in mind.

Thank you, Madam President.

THE PRESIDENT: Thank you.

MR. ROMULO: Madam President.

THE PRESIDENT: Yes, the Acting Floor Leader is recognized.

MR. ROMULO: I move that we close the period of amendments on the Article on the Commission on Audit.

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

APPROVAL OF PROPOSED RESOLUTION NO. 469

ON SECOND READING

(Article on the Commission on Audit)

MR. ROMULO: Madam President, may I propose that we vote on Second Reading on Proposed Resolution No. 469, the Article on the Commission on Audit, as amended.

THE PRESIDENT: As many as are in favor of Proposed Resolution No. 469, as amended, on the Commission on Audit, please raise their hand. (All Members raised their hand.)

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

The results show 32 votes in favor and none against.

Proposed Resolution No. 469 on the Commission on Audit is approved, as amended, on Second Reading.

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

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, in the Calendar of Business today, on page 6, Committee Report No. 27 is the proposed resolution on the subsection on the Article on Constitutional Commissions with respect to the Commission on Elections. Each Commissioner has already been furnished a copy of Committee Report No. 27.

I move that Committee Report No. 27 be moved into the item under the Business for the Day which will be the next report that will be taken up by the Committee on Constitutional Commissions and Agencies.

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

MR. REGALADO: Madam President, before we consider this, may I just call attention to a typographical error which might mislead the Commissioners in the consideration thereof. On page 4, line 21, on the words "Commission on Election contests," the letter "E" in "Election" should be in the lower case. But we will amend that also. So it should read: "Final decisions, orders or rulings of the Commission on election contests" — with a small e.

CONSIDERATION OF PROPOSED

RESOLUTION NO. 521

(Article on the Commission on Elections)

PERIOD OF SPONSORSHIP AND DEBATE

MR. ROMULO: Madam President, I move that we consider Committee Report No. 27 on Proposed Resolution No. 521 as reported out by the Committee on Constitutional Commissions and Agencies.

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

Consideration of Proposed Resolution No. 521 is now in order. With the permission of the body, the Secretary-General will read the title of the resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 521, entitled: RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON ELECTIONS.

(The following is the whole text of the proposed resolution per C.R. No. 27.)

COMMITTEE REPORT NO. 27

The Committee on Constitutional Commissions and Agencies to which were referred:

Proposed Resolution No. 57, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION WHICH REQUIRES POLITICAL PARTIES TO CONFORM THEIR INTERNAL ORGANIZATION TO DEMOCRATIC PRINCIPLES AND TO PUBLICLY ACCOUNT FOR THE SOURCES OF THEIR FUNDS.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 60, entitled:

RESOLUTION FOR THE ADOPTION OF A PROVISION IN THE PROPOSED CONSTITUTION OF THE PHILIPPINES PROHIBITING "BLOCK VOTING" IN ALL ELECTORAL EXERCISES.

Introduced by Hon. Alberto Jamir, Jose Suarez, Jaime Tadeo, and Adolfo Azcuna.

Proposed Resolution No. 62, entitled:

RESOLUTION TO PROVIDE IN THE NEW CONSTITUTION THAT SERIOUS ELECTION OFFENSES, AS DEFINED BY LAW, SHALL BE PUNISHABLE BY DEATH.

Introduced by Hon. Jose Nolleto.

Proposed Resolution No. 68, entitled:

RESOLUTION AMENDING SECTION 10, ARTICLE XII (C) OF THE 1973 CONSTITUTION, AS AMENDED.

Introduced by Hon. Vicente Foz.

Proposed Resolution No. 110, entitled:

RESOLUTION AMENDING SECTION 1 (1) AND (2), ARTICLE XII (C) OF THE 1973 CONSTITUTION BY REDUCING THE NUMBER OF MEMBERS OF THE COMMISSION ON ELECTIONS FROM NINE TO SEVEN, AND PROVIDING THAT AT THE TIME OF THEIR APPOINTMENT THEY SHALL BE AT LEAST FORTY YEARS OF AGE AND A MAJORITY OF THE MEMBERS INCLUDING THE CHAIRMAN, SHALL BE MEMBERS OF THE PHILIPPINE BAR WITH AT LEAST TEN YEARS OF PRACTICE AND THAT IN CASE AN INCUMBENT COMMISSIONER IS APPOINTED CHAIRMAN, HIS AGGREGATE TENURE SHALL NOT EXCEED SEVEN YEARS.

Introduced by Hon. Vicente Foz and Christian Monsod.

Proposed Resolution No. 193, entitled:

SOLUTION TO STRENGTHEN THE COMMISSION ON ELECTIONS BY INCORPORATING IN THE NEW CONSTITUTION PROVISIONS REQUIRING THAT APPOINTMENTS THERETO SHALL BE MADE FROM A LIST OF NOMINEES SUBMITTED BY VARIOUS SECTORS AND INCREASING THE QUALIFICATIONS FOR APPOINTMENT AS COMMISSIONER.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 195, entitled:

RESOLUTION TO GUARANTEE THE RIGHT OF CIVIC ORGANIZATIONS TO BE ACCREDITED AS CITIZEN ARM OF THE COMMISSION ON ELECTIONS AND TO BE AFFORDED PROTECTION BY MAKING ITS MEMBERS WHILE IN THE PERFORMANCE OF DUTY AS AGENTS OF PERSONS IN AUTHORITY.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 225, entitled:

RESOLUTION TO STRENGTHEN FURTHER THE COMMISSION ON ELECTIONS BY GRANTING IT EXCLUSIVE AUTHORITY TO DEPUTIZE LAW ENFORCEMENT AGENCIES AND INSTRUMENTALITIES AND THE ARMED FORCES, IF NECESSARY, FOR THE PURPOSE OF ENSURING FREE, ORDERLY, HONEST, AND CLEAN ELECTIONS.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 244, entitled:

RESOLUTION ESTABLISHING THE RIGHT OF CITIZENS, TEMPORARILY OUT OF THE COUNTRY, TO VOTE.

Introduced by Hon. Teodulo Natividad, Blas Ople, Rustico de los Reyes, and Regalado Maambong.

Proposed Resolution No. 284, entitled:

RESOLUTION AUTHORIZING APPEALS ON QUESTIONS OF FACT FROM DECISIONS OF THE COMMISSION ON ELECTIONS.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 305, entitled:

RESOLUTION PROHIBITING THE REGISTRATION OF POLITICAL PARTIES UNLESS THEY PUBLISH AND SUBMIT THEIR PROGRAM OF GOVERNMENT OR PLATFORMS AND THEIR CONSTITUTION AND BY-LAWS AND PROCLAIM THEIR ADHERENCE TO AND SUPPORT OF THE CONSTITUTION.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 308, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION PROHIBITING ANY RELIGIOUS SECT AND ANY PARTY, AGGROUPEMENT, ASSOCIATION OR ORGANIZATION WHICH SEEKS DIRECTLY OR INDIRECTLY TO ACHIEVE ITS GOAL THROUGH VIOLENCE OR ARMED STRUGGLE FROM BEING REGISTERED OR ACCREDITED AS A POLITICAL PARTY.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 312, entitled:

RESOLUTION TO INCLUDE A PROVISION IN THE NEW CONSTITUTION THAT ALL CANDIDATES FOR ELECTION OR REELECTION SHALL AUTOMATICALLY VACATE THEIR POSITION UPON THE FILING OF THEIR CERTIFICATES OF CANDIDACY.

Introduced by Hon. Jose Suarez and Alberto Jamir.

Proposed Resolution No. 349, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION CERTAIN GUARANTEES TO BONA FIDE CANDIDATES FOR ANY PUBLIC OFFICE.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 350, entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION A PROVISION THAT ONLY POLITICAL PARTIES, AGGROUPEMENT, ORGANIZATION OR MOVEMENT WHICH HAVE OBTAINED AT LEAST FIFTEEN PERCENT OF THE TOTAL NUMBER OF VOTES CAST IN THE IMMEDIATELY PRECEDING ELECTION IN THE CONSTITUENCY TO WHICH IT SEEKS ACCREDITATION SHALL BE ACCREDITED BY THE COMMISSION ON ELECTIONS.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 358, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION THAT NO PARTY OR CANDIDATE SHALL HAVE MEMBERSHIP IN THE REGISTRATION BOARDS, BOARD OF ELECTION INSPECTORS AND BOARD OF CANVASSERS BUT SHALL BE ENTITLED TO APPOINT

WATCHERS.

Introduced by Hon. Hilario Davide, Jr.

Proposed Resolution No. 380, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION THE FIXING OF THE MINIMUM ELECTION PERIOD.

Introduced by Hon. Efrain Treñas.

Proposed Resolution No. 410, entitled:

RESOLUTION MAKING THE COMMISSION ON ELECTIONS THE SOLE JUDGE OF ELECTION RETURNS AND QUALIFICATIONS OF ALL ELECTIVE LOCAL OFFICIALS.

Introduced by Hon. Hilario Davide, Jr.

has considered said resolutions and has the honor to report it back to the Constitutional Commission of 1986 with the recommendation that Proposed Resolution No. 521 prepared by the Committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON ELECTIONS,

be approved in substitution of Proposed Resolution Nos. 57, 60, 62, 68, 110, 193, 195, 225, 244, 284, 305, 308, 312, 349, 350, 358, 380 and 410, with the members of the Committee on Constitutional Commissions and Agencies and Hon. Davide, Suarez, Tadeo, Azcuna, Nollado, Natividad, Ople, Maambong and Treñas as authors thereof.

(Sgd.) Vicente B. Foz

Chairman

Committee on Constitutional
Commissions and Agencies

PROPOSED RESOLUTION NO. 521

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON ELECTIONS

Be it resolved as it is hereby resolved, by the Constitutional Commission in session assembled to incorporate in Article XII of the new Constitution, the following provisions:

C. THE COMMISSION ON ELECTIONS

SECTION 1. (1) There shall be an independent Commission on Elections composed of a Chairman and six (6) Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age and holders of a college degree. However, a majority thereof, including the Chairman, shall be members of the Philippine Bar who have been engaged in the practice of law for at least ten (10) years.

(2) The Chairman and the Commissioners shall be appointed by the President for a term of seven (7) years without reappointment. Appointments to the Commission need no confirmation. Of those first appointed, three (3) Members shall hold office for seven (7) years, two (2) Members for five (5) years and the last Members for three (3) years, without reappointment. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor. In no case shall any Member be appointed in a temporary or acting capacity.

SECTION 2. The Commission on Elections shall exercise the following powers and functions:

- (1) Enforce and administer all laws and regulations relative to the conduct of elections, plebiscites, recalls, initiatives and referenda;
- (2) Be the sole judge of all contests relating to the elections, returns and qualifications of all elective provincial, city, municipal and barangay officials;
- (3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters;
- (4) Deputize, with notice to the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest and peaceful elections;
- (5) Register after sufficient publication, political parties, organizations or coalitions and accredit citizens' arms of the Commission, except that religious sects, or those which seek to achieve their goals through violence and refuse to uphold this Constitution, shall not be registered;
- (6) On a verified complaint or on its own, file petitions in court for inclusion or exclusion of voters from the registry of qualified voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election fraud, offenses and malpractices;
- (7) Recommend to the legislature effective measures to minimize election spending and prevent and/or penalize all forms of election frauds, offenses and malpractices, nuisance candidacy or other similar acts;
- (8) Recommend to the President the removal of, or any other disciplinary action against, any officer or employee it has deputized, for violation or disregard of or disobedience to its directive, order or decision;
- (9) Submit to the President and the Batasang Pambansa a comprehensive report on the conduct and manner of each election, plebiscite, and referendum; and
- (10) Perform such other functions as may be provided by law.

SECTION 3. No votes cast in favor of a political party, organization or coalition shall be valid, except as may be provided in this Constitution under the party-list system.

SECTION 4. Bona fide candidates for any public office shall be free from any form of harassment and discrimination.

SECTION 5. Political parties or organizations or coalitions registered under the party-list system shall not be represented in the voters' registration boards, boards of election inspectors, boards of canvassers or other similar bodies. However, they shall be entitled to appoint poll watchers in accordance with law.

SECTION 6. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedures in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.

SECTION 7. The enjoyment or utilization of all franchises or permits for the operation of transportation and other public utilities, media of communication or information, all grants, special privileges or concessions granted by the Government or any subdivision, agency or instrumentality thereof, including any government-owned or

controlled corporation, may be supervised or regulated by the Commission during the election period, including rates, reasonable free space, and time allotments for public information campaigns and forums among candidates for the purpose of ensuring free, orderly, honest and peaceful elections.

SECTION 8. Unless otherwise fixed by the Commission in special cases; the election period shall commence ninety days before the day of election and shall end thirty days thereafter.

SECTION 9. No pardon, amnesty, parole or suspension of sentence for violation of election laws, rules and regulations shall be granted by the President without the favorable recommendation of the Commission.

SECTION 10. Final decisions, orders or rulings of the Commission on Election contests involving elective municipal and barangay offices shall be final, inappealable and executory.

SECTION 11. Funds certified by the Commission as necessary to defray the expenses for holding regular and special elections, referenda and plebiscites shall be provided in the regular or special appropriations and, once approved, shall be released automatically upon certification by the Chairman of the Commission.

THE PRESIDENT: The sponsor, Commissioner Foz, is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER FOZ

MR. FOZ: Madam President, in connection with Proposed Resolution No. 521 which has to do with the provisions on the Commission on Elections, we would like to point out the highlights of the provisions with regard to the basic changes that we have introduced in the Committee — the changes numbering to nine and some of them involve some basic provisions affecting the Commission on Elections.

We have already known in our discussion on the Common Provisions for the three constitutional commissions that fiscal autonomy has been granted to the three commissions, including the Commission on Elections. We said that by fiscal autonomy, we mean, as provided expressly in the provisions of the Common Provisions, that the annual appropriations of the commission shall be released automatically and regularly to the commission concerned.

We go to the other changes now. On the powers and functions of the Commission on Elections, there is a change in that the commission is made the sole judge of all contests relating to the election returns and qualifications of all elective provincial, city, municipal and barangay officials. In other words, the commission has lost its jurisdiction over election contests involving the members of the legislature, and this is only in conjunction with the report of the Committee on the Legislative which seeks to recreate the Electoral Tribunal in the legislature. Also, this provision would vest the Commission on Elections with competence to decide controversies on the election returns and qualifications of municipal and barangay officials because at present under the existing provision of the 1973 Constitution, the commission has jurisdiction only over cases involving elective provincial and city officials, but not the municipal and barangay officials. That is one basic change.

Concerning the power of the commission to deputize law enforcement agencies and instrumentalities of the government, including the Armed Forces of the Philippines, for the purpose of ensuring free and honest elections, the Committee has decided to empower the commission to deputize, only with notice to the President, law enforcement agencies and instrumentalities of the government, including the Armed Forces of the Philippines.

The third major change has to do with the registration of political parties, organizations or coalitions and the accreditation of a citizens arm of the Commission. Parties which seek to achieve their goals through violence and refuse to uphold this Constitution shall not be registered. In other words, we have decided to do away with the two-party system which has been installed by the 1973 Constitution. We have also, of course, reenacted the

prohibition on religious acts being registered as a political party.

Another significant change is the provision empowering the Commission on Elections, on a verified complaint or on its own, to file petitions in court for inclusion or exclusion of voters from the registry of qualified voters; and also, not only to investigate but, where appropriate, prosecute cases of violations of election laws.

Another change is the provision allowing partial block voting. The provision reads:

No votes cast in favor of a political party, organization or coalition shall be valid, except as may be provided in this Constitution under the party-list system.

The meaning of a party-list system will be explained later on.

Another provision reads:

Political parties or organizations or coalitions registered under the party-list system shall not be represented in the voters' registration boards, boards of election inspectors, boards of canvassers or other similar bodies. However, they shall be entitled to appoint poll watchers in accordance with law.

Regarding the regulation by the Commission of the enjoyment or utilization of franchises or permits for the operation of transportation and other public utilities, media of communication or information, all grants, special privileges or concessions granted by the Government, there is a provision that during the election period, the Commission may regulate, among other things, the rates, reasonable free space, and time allotments for public information campaigns and forums among candidates for the purpose of ensuring free, orderly, honest and peaceful elections. This has to do with the media of communication or information.

Finally, there is a provision that funds certified by the Commission as necessary to defray the expenses for holding regular and special elections, referenda and plebiscites shall be provided in the regular or special appropriations and, once approved, shall be released automatically upon certification by the Chairman of the Commission.

Madam President, we are ready to answer any questions from the floor in connection with our report.

MR. ROMULO: Madam President, may I request that Commissioner Maambong be recognized.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President and members of the Committee, I understand from the sponsorship speech that in matters of contests of barangay, municipal and provincial officials, the jurisdiction is all exclusive to the Commission on Elections. Under the present law that we have, cases involving election contests of barangay officials are initiated in the municipal trial court or metropolitan trial court, subject to appeal to the Regional Trial Court whose decision is final. In other words, when it comes to barangay officials, the COMELEC has nothing to do at all with the election contest. In the case, however, of municipal officials, under the present law, the Omnibus Election Code, the original jurisdiction is with the Regional Trial Court, and the decision is appealable to the Commission on Elections. We are suggesting — and we would like the Committee to take note of this that while we admit that in all contests, whether it be barangay, municipal, provincial or city officials, the sole authority should be the Commission on Elections — that there should be a two-tiered resolution of cases in the sense that when it comes to barangay officials, the municipal trial court or the metropolitan trial court should have jurisdiction first, then it is appealable to the COMELEC.

In the case of municipal officials, we are thinking that the regional trial court should have jurisdiction, and then it is appealable to the COMELEC. And in the case of provincial or city officials, the first jurisdiction, which is

exclusive, would be the COMELEC. I wonder if the Committee would take that into consideration considering these facts. If we will allow the COMELEC to have executive jurisdiction over cases involving barangay and municipal officials, one can just imagine the difficulty of the COMELEC, considering that we have thousands of barangay and municipal officials. And as I understand from my private conversation with the Chairman of the COMELEC, the Honorable Ramon Felipe, when it comes to contests involving barangay and municipal officials, the COMELEC may have to send hearing officers; whereas if we will allow the municipal trial court and the metropolitan trial court to have jurisdiction over these cases, they will be given the proper consideration by the court. In the case of contests involving municipal officials, the regional trial court, which is also a court, should have jurisdiction, not the hearing officers of the COMELEC. So, we have a two-tiered situation here which we lawyers think would be the best remedy considering again my allusion to the fact that there are so many barangays and municipalities all over the country.

That is just my suggestion. I do not know if the Committee could respond to it so that we could perhaps present some amendments.

MR. REGALADO: In other words, insofar as the appellate jurisdiction of the Commission on Elections concerned, it is still preserved despite the fact that it involves barangay, municipal, city or provincial officials.

MR. MAAMBONG: Yes, we would rather insist on that because that is a constitutional mandate.

MR. REGALADO: The Commissioner's proposal is only with respect to the original jurisdiction; that is, insofar as election contests involving barangay officials are concerned, the municipal trial courts have the original jurisdiction: whereas in the case of city and provincial officials, the original jurisdiction is vested in the regional trial courts.

MR. MAAMBONG: No, Madam President. In the case of provincial and city officials, the original and exclusive jurisdiction should be with the Commission on Elections.

MR. REGALADO: In the case of municipal officials, then it will be the regional trial courts which will exercise original jurisdiction.

MR. MAAMBONG: That is correctly put, Madam President.

MR. REGALADO: But altogether, in the ultimate analysis on appellate jurisdiction, they will all have to go to the Commission on Elections eventually.

MR. MAAMBONG: Yes, Madam President. They will still be the sole judge of all election contests.

MR. MONSOD: Madam President, perhaps we can give the Commissioner a rationale of the pertinent provision. We started from the premise that if the COMELEC — and this was discussed with the Commission on Elections quite extensively — has original jurisdiction over provincial officials, then it should also be fit to handle lower officials. The only possible obstacle is the availability and the number of COMELEC officials.

The COMELEC, however, in the review of its organization, found that there were some redundancies within their system now, principally at the regional level. And the redundant personnel can really be reoriented or reorganized, which they are in the process of doing, to become regional election arbiters. In other words, the head office of the COMELEC does not have to send people out. First of all, they do not have that many, but they are going to set up and organize in order to handle precisely election contests in the barangays and the municipalities. The process of appeal from there is to the COMELEC itself. In other words, there would still be a two-step process. This is the procedure that is now envisaged by the COMELEC, if these procedures or provisions are approved by this body.

MR. MAAMBONG: The thing is, we are not only concerned really with the lack of personnel of the COMELEC;

we are more concerned with the importance that should be given to a barangay and a municipal election contest. It is our experience, considering that we have gone to a series of political exercises, that normally the COMELEC, in order to supplement whatever personnel we have in the regional level, usually send hearing officers. And we strongly feel that at the very first time that a case, whether it be a minor case of a barangay official or a municipal official, is brought before a tribunal, it should not be placed in the hands of merely hearing officers but of a court. That is really our intention because we are talking here of the sanctity of the right of a person to suffrage. If we assign it to hearing officers, we do not seem to give it that much importance. At any rate, we are still in agreement with the Committee that the Commission on Elections should be the sole judge. We are not deviating from that principle in any way.

MR. MONSOD: When we posed that question to the COMELEC, they said that, precisely, they will reorganize in order to have their lawyers handle these questions. They also said that they have the experience in handling election contests, which probably has validity because they know the election laws. That is their expertise, that is why they feel that they are in a better position to make judgment on such contests. However, I think, the Commissioner also has some meritorious arguments, and perhaps we can deal with it at the proper time.

MR. MAAMBONG: Yes, Madam President. I will not waste the time of the Committee anymore.

MR. REGALADO: May I ask Commissioner Maambong a question?

MR. MAAMBONG: Yes, Madam President.

MR. REGALADO: Is it his concern that we vest in the municipal trial courts the matter of election contests for barangay officials and in the regional trial courts election contests involving municipal officials thereby requiring a judicial officer to handle these cases, heightened by the fact that the decisions of the municipal trial court or the regional trial court in those election contests involving barangay and municipal officials are final and immediately executory?

MR. MAAMBONG: Under the present law, when it comes to appeals from the municipal trial court to the regional trial court, these become final and executory, and we feel that in this regard, the jurisdiction of the COMELEC has been diluted. And we do not like that, Madam President.

MR. REGALADO: Thank you.

MR. ROMULO: Madam President, may I ask that Commissioner Bacani be recognized?

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Will the members of the Committee yield to a few questions?

MR. FOZ: With pleasure.

THE PRESIDENT: Please proceed.

BISHOP BACANI: On page 2, line 22, it says:

. . . Register after sufficient publication, political parties, organizations or coalitions and accredit citizens' arms of the Commission, except that religious sects, or those which seek to achieve. . .

What is the meaning of the phrase "religious sects"? What is its coverage? What does the term "religious sects" mean?

MR. FOZ: It means religious groups or even churches. The prohibition here is that religious groups or sects cannot be registered as political parties.

BISHOP BACANI: Yes. The reason I ask is that the word "sects" may mean a minority group or a break-away group; and in common language, big religious organizations would not want to be included under the word "sect." So, perhaps, we have to look for a major word for this or add a few more words, like "religious bodies, churches or denominations." Besides the word "sects" very often has a pejorative sense. May I ask for the rationale of that provision?

MR. FOZ: That is, I think, a takeoff from the constitutional injunction that the separation of church and state shall be inviolable.

BISHOP BACANI: May I ask this: Will the sponsor be willing to include in this Constitution that atheistic groups, agnostic groups and groups dedicated to the abolition of religion shall not be accredited and registered?

MR. FOZ: We have not considered an idea like that, but we would be willing to discuss the matter at the proper time.

BISHOP BACANI: Yes, because if the Committee will not include such groups, then we will be putting religious sects in a lesser and disadvantageous position in relation to atheistic groups, agnostic groups or groups dedicated to the abolition of religion. So, it would seem that we would have to include those groups in order to have parity.

MR. FOZ: Groups like those which the Commissioner has mentioned would partake of — although these are antireligion — a kind of religion in that sense, I would suppose.

BISHOP BACANI: Yes. They would not claim to be; they would claim that there is no religion at all. They may be ideological groups. I would just like to point that out. There may be some amendments in that regard that may have to be introduced when the proper time comes.

Thank you.

MR. FOZ: I thank the Commissioner.

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

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Although I am a member of the Committee, I would like to ask some questions for clarification.

On page 2, Section 2, subparagraph 2, the provision reads:

. . . the sole judge of all contests relating to the elections, returns and qualifications of all elective provincial, city, municipal and barangay officials.

So, the COMELEC will be the sole judge of contests involving provincial, city, municipal and barangay officials.

In Section 10, it reads:

Final decisions, orders or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, unappealable . . .

I think that should be "unappealable and executory." Is there no inconsistency between the two? While Section 2, subparagraph 2 embraces provincial, city, municipal and barangay officials, Section 10 embraces only municipal and barangay officials.

MR. REGALADO: Madam President, this Section 10 was originally in the Common Provisions which, on motion, was transposed, to be placed strictly under the Commission on Elections. But as transposed, the corrections should not appear. As already corrected, it should properly read: "Decisions, FINAL orders or rulings

of the Commission on election contests involving elective municipal and barangay offices shall be final and IMMEDIATELY executory." The word "unappealable" was stricken off.

MR. RODRIGO: No. My point there is not on the word "unappealable."

MR. REGALADO: Yes, I just wanted to put the wordings properly. It was the sense of the Committee that with respect to municipal and barangay officials in election contests involving them, the decisions could be final and immediately executory.

MR. RODRIGO: How about decisions in the case of provincial and city officials?

MR. REGALADO: They made a distinction because the original jurisdiction as envisioned would be in the Commission on Elections itself and, of course, the appellate jurisdiction would be to the Supreme Court.

MR. RODRIGO: But it says "shall be the sole judge." That could connote finality. That is in Section 2, subparagraph 2. It would imply that it is final; it is the sole authority and no appeal or petition for certiorari will thereafter be allowed.

MR. REGALADO: That was the observation of Commissioner Maambong, and he said he will introduce an amendment at the proper time.

MR. RODRIGO: So, what is the intention of the Committee then? Is it the intention that decisions of the COMELEC shall be final for provincial, city, municipal and barangay officials or only for municipal and barangay officials?

MR. REGALADO: The thinking here is that it would only be for barangay and municipal officials.

MR. RODRIGO: So, that would be amended accordingly.

MR. REGALADO: And on the matter of the COMELEC being the sole judge, although there is a provision in certain instances for appeal by certiorari to the Supreme Court, that does not affect the constitutional provision that it be the sole judge because, after all, an appeal by certiorari to the Supreme Court from a decision of the COMELEC would merely involve the question of mistake of law and jurisdiction.

MR. RODRIGO: Just another point. In Section 2, subparagraph 4 on page 2, it says, "Deputize, with notice to the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines . . ." In the present Constitution, the provision is "Deputize, with the consent of the President . . ." Why was "consent" changed? So, whether the President consents or not, the Commission on Elections may deputize.

MR. REGALADO: In the 1971 Constitutional Convention proceedings the phrase "with the consent of the President" was included. I understand from my reading of the records that the President would also share the blame in the event that he fails to deputize law enforcers, by reason of withholding his consent. On the other hand, we have to consider the situation where the President may delay the granting of his consent, so much so that it might be an exercise in futility. As a compromise, we decided that notice be given to the President to avoid delay in the deputation. But, at the same time, if he in any way obstructs the deputation, then not only the COMELEC will be blamed; he will be as much guilty.

MR. RODRIGO: As we can see, the President is the Commander-in-Chief of the Armed Forces. Would this not be a diminution of his power as Commander-in-Chief of the Armed Forces?

MR. REGALADO: We do not believe so because if the President feels that the deputation is really meritorious, he should not improvidently withhold his consent. On the other hand, if he does so despite the fact that the situation

is patently one calling for a deputation, by hiding behind the Commander-in-Chief clause, that would in effect be a negative exercise of his duties as President, for he should see to it that all the laws are faithfully executed.

MR. RODRIGO: Let us see the practical application of this. In the present Constitution, the deputation takes effect after the consent of the President shall have been given. Under this proposal, the deputation takes effect even before the President gives his or her consent. But I suppose the President has the power to refuse. Let us say that two days later he says: "No, I do not want the deputation."

MR. REGALADO: I think the President has that power for which he has to answer before the people in the event that his negative exercise of his duty to faithfully execute the laws turn out to be a reason for electoral frauds.

MR. RODRIGO: But constitutionally, he has the power. The Commissioner just wants to place the President in a situation where it will not look good for him to refuse or to veto. But the veto power remains with the President.

MR. REGALADO: Yes, that is correct; but at least with prior notice the President is made aware that there is a need for deputation as recommended by the COMELEC. Without prior notice, the President, even if he knows that there might be a need for deputation and for reasons of his own, may cause the transfer of a military contingent to another area on the pretext that it is necessary for the anti-insurgency campaign.

MR. RODRIGO: But at the same time, the President is the Commander-in-Chief of the Armed Forces. As such he is empowered to command the Armed Forces. Under this provision, he will share this power temporarily with the Commission on Elections.

MR. REGALADO: As we said, if the President insists on not giving the corresponding cooperation despite the need for deputation, then he . . .

MR. RODRIGO: But there will be a lapse of time, let us say, a few days, before the President knows that the Commission on Elections has "deputized the Armed Forces," but before he or she can say "no I don't like this," the Armed Forces must obey the deputation order of the Commission on Elections.

MR. REGALADO: Yes.

MR. RODRIGO: Is this not an invasion of the Commander-in-Chief's power of the President? During those few days, at least, there are two commanders-in-chief.

MR. REGALADO: Actually, the COMELEC there is not usurping the powers of the President because deputation would be done ostensibly with prior consultation. If the President is not available, however, the COMELEC should not exercise this power improvidently, but only to meet an urgent situation.

MR. RODRIGO: Maybe that was the reason the 1971 Constitutional Convention used the phrase "with the consent of the President." So, that would not be a diminution of the commander-in-chief powers of the President.

Thank you very much.

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

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: I just want to ask a simple question on Section 1, subparagraph 2. Assuming we have the Commission on Appointments, why is there no need to confirm the appointments of commissioners of the Commission on Elections by the Commission on Appointments?

MR. MONSOD: In view of the judgment of this body in the case of the Civil Service Commission and the Commission on Appointments, we are prepared to consider similar amendments only with the reminder that the

COMELEC deals precisely with politicians. However, we are prepared to entertain amendments at the proper time.

SR. TAN: Thank you, Madam President.

My second question: Is there a special reason for reducing the number of commissioners from nine to seven? In the 1973 Constitution, there were nine while in the proposed Constitution, there are only seven.

MR. MONSOD: As a matter of fact, in the 1935 Constitution, there were only three — a chairman and two commissioners. Seven commissioners is the recommendation of the COMELEC itself, for it felt that there were too many members in the present Commission such that when they sit en banc — I think they had the same problem that applied to the Judiciary in the case of the Supreme Court — they found it very difficult to make decisions. So, the COMELEC suggested that either five or seven commissioners will suffice. In a way, it was a bit arbitrary to choose between five or seven although it is difficult to have two divisions with five. But the Committee agreed to reduce the number from nine to seven.

SR. TAN: Thank you, Madam President.

So, it was the same reason we had in the case of the Supreme Court.

MR. MONSOD: Yes.

MR. ROMULO: Madam President, may I ask that Commissioner Nollado be recognized?

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

On page 3, lines 18 to 19. Section 4 reads and I quote:

Bona fide candidates for any public office shall be free from any form of harassment and discrimination.

Correct me if I am wrong, but it seems to me that since this was adopted by the 1971 Constitutional Convention, there has been no implementing statute on this provision in spite of the fact that this is a very basic provision.

Ordinarily, in a heated campaign for public office, a candidate may be harassed, say, in the form of tax assessment, criminal suits or administrative charges, if he was a former public official. May I know from the Committee, in order to help our future researchers, some examples of harassment and discrimination? May criminal suits be filed against the candidate during a political campaign? May administrative cases be filed against him, being a former public official? May tax assessments be made upon him?

MR. FOZ: Will the Commissioner give his questions one by one so that we can answer them?

MR. NOLLEDO: Yes, my first question: May criminal or administrative suits be filed against a candidate while a political campaign is going on?

MR. FOZ: It will depend on whether the evidence would warrant the filing of such a case and complaint.

MR. NOLLEDO: Would that not constitute harassment?

MR. FOZ: If there is no evidence and considering other circumstances, obviously that would constitute harassment.

MR. NOLLEDO: Would not the Committee agree with me that that would constitute harassment because it can obstruct the campaign of the candidate? Assuming that there is evidence that supports the criminal or

administrative suit, the government may file the case later on.

MR. MONSOD: We believe that at present the candidates do not enjoy any explicit immunity during the period of campaign and there are no legislation that we know of specifically to handle the situations that the Commissioner mentioned. So, that is a general response to the question.

MR. NOLLEDO: Commissioner Regalado would like to make some statements.

MR. REGALADO: The Commissioner's question is whether or not the government, for reason of its own, could file criminal suits against a candidate during the period of the campaign. We cannot prevent the government or a private party from filing such a criminal suit because there may be reasons of prescription of offenses. The party who files the suit may claim that there is danger of loss of evidence or, let us say, concealment of witnesses; however, the candidate will not necessarily be unduly concerned if he is really innocent because, after all, he still has further remedies if it turned out to be a false and malicious or groundless criminal case. The other party may be liable civilly for malicious prosecution and criminally for perjury. Furthermore, we still have a safeguard of a criminal investigation and we proceed on the assumption that our fiscals will exercise their duties under the rules on preliminary investigation.

We do not feel that we can, by legislation, grant a sort of immunity against suit.

MR. NOLLEDO: I am not talking of immunity but of persecution. That is why I would like to ask the Committee if we can add "persecution" after the word "harassment." Cannot the government wait until the end of the election campaign before the suits are filed against him?

MR. REGALADO: This is just a general statement. We could possibly entertain during the period of amendments the matter of legislation on this point. The candidate should not be subjected to harassment or discrimination. So, the Commissioner can suggest that the Congress should provide by legislation the corresponding protection and safeguards.

MR. NOLLEDO: My last question since this has not been answered yet: Can the Commissioner give some examples of harassment or discrimination?

MR. REGALADO: Discrimination could be in the matter of availment of media remedies from the COMELEC.

Harassment includes the filing of criminal or administrative actions and it may take as many forms as the imagination of the person seeking to harass can conceive.

MR. NOLLEDO: Just a follow-up question, if the Commissioner does not mind. Therefore, discrimination should refer to his candidacy. Should discrimination in the grant of concessions not be included?

MR. REGALADO: No, we are more concerned about his candidacy because we are on this provision.

MR. NOLLEDO: Thank you, Madam President, and I also thank the Commissioner.

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

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, may I be allowed to ask one clarificatory question?

Section 2, (2) provides that the COMELEC shall:

Be the sole judge of all contests relating to the elections, returns and qualifications of all elective provincial, city, municipal and barangay officials.

This provision is silent as to when the contest shall be filed, resolved and decided by the COMELEC. I am reminded of that provision in the Article on the Judiciary that the Supreme Court and other courts are mandated to resolve cases within a certain period of time so that violation of that mandate or requirement will constitute culpable violation of the Constitution. Does not the Commissioner think that we should specify the periods within which election contest shall be filed and resolved?

MR. REGALADO: The same question was raised this morning with respect to the other constitutional commissions and Commissioner Davide proposed the adoption of a rule similar to that which we adopted for the Judiciary as to when a case or matter is deemed submitted and within what period it should be decided since a constitutional commission is a collegial body, although exercising quasi-judicial functions only. But it was felt that since under Section 6, the Commission on Elections shall promulgate its rules of procedure in order to expedite disposition of election contests, and considering the fact that under the Article on the Judiciary there is a provision that all rules of procedure of quasi-judicial bodies shall be approved and shall be effective only until disapproval thereof by the Supreme Court, this matter should be left to the Commission on Elections, to adopt their own rules subject to approval thereafter by the Supreme Court, just as the other constitutional commissions do.

MR. SARMIENTO: Does not the Commissioner think that we should include a provision on the period within which to resolve election cases, because election is vital to democracy? The COMELEC is separate and distinct from the other commissions. Here we are speaking of the right of the people to choose their officers.

MR. REGALADO: That is precisely why they are given the rule-making power which the Supreme Court will oversee as to whether these rules will grant appropriate relief and remedy. Section 5 under the Common Provisions states:

Each Commission shall decide by a majority vote of all its members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court in certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

Now, to the other details: As to when the case should be filed, that depends on the initiative of the person filing the case; as to when the case shall be deemed submitted for decision, that can be the subject of the rules of the Commission on Elections which, after all, have to be approved by the Supreme Court.

MR. SARMIENTO: But can we not possibly specify the period within which the COMELEC has to resolve the case so that a violation of the same shall constitute a culpable violation of the Constitution?

MR. REGALADO: It says here: "within sixty days from the date of its submission." This applies to all the constitutional commissions.

MR. SARMIENTO: Thank you very much.

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

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, will the sponsor yield to a few questions?

MR. MONSOD: Yes, Madam President.

MS. ROSARIO BRAID: The first one has something to do with Section 1. In view of the experience during the last election, would the sponsors wish to add additional criteria for COMELEC Commissioners, such as,

independence, probity and moral character?

MR. MONSOD: We had considered those. We felt that we could really say a lot of words as to unquestioned integrity, probity and so on. But, in the final analysis, we have to assume that the appointing power has to consider the reasons. Nevertheless, we would be prepared to discuss the matter at the appropriate time, maybe, on a uniform basis with the other commissions.

Thank you.

MS. ROSARIO BRAID: My second question is on Section 5, page 2.

Again during the past few years, there has been a trend towards politics of issues rather than the politics of personalities. I would like to refer to the resolution submitted by Commissioner Davide, recommending the need for an additional criterion in the registration of political parties, which should include a well-defined government program or platform.

Will the sponsor consider a provision to that effect?

MR. MONSOD: One of the problems of having a requirement like that is the assumption that the party applying for registration is a political party which takes into consideration the total programs of government. But the intent of the Committee is to open up the system so that even sectoral interests can register and field candidates. So, we are afraid that if we impose conditions that are really more applicable to a national political party, we might be frustrating precisely our intent to have a multiparty in the country.

MS. ROSARIO BRAID: I understand that but even citizens groups have clearly defined platforms or programs like national development programs or philosophy of social and economic development.

MR. MONSOD: I am not sure if all of them would have it, but in any case the Commission on Elections, in the process of registration, has certain criteria that would deal with such details. We were just afraid that if we assume and put in certain things, we might be excluding organizations that deserve to be included in the party-list system.

MS. ROSARIO BRAID: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Madam President, I would like to ask the sponsors a clarificatory question.

On page 3, line 4, something is mentioned about nuisance candidacy. In the deliberations of the Committee may we know if this has been defined? What is a nuisance candidate?

MR. FOZ: I think this is well taken care of in the Omnibus Election Code.

MR. MONSOD: That is specifically defined and dealt with in the Omnibus Election Code. That has a meaning in jurisprudence based on the cases and the law. But we can look for it and maybe later on, we can show it to the Commissioner.

MR. BENNAGEN: I ask that because in previous presidential elections, there have been accusations of a ruling party creating its own opposition candidate. Would that be considered a nuisance candidate?

MR. FOZ: I suppose so. But then it would be really difficult to prove that an opposition candidate is really financed by the administration just to divide the opposition votes.

MR. MONSOD: May I read to the Commissioner the particular provision:

The Commission may motu proprio or upon a verified petition of an interested party refuse to give due course to or cancel a certificate of candidacy if it is shown that such certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which a certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

So it is actually broad enough to include the situation the Commissioner has in mind.

MR. BENNAGEN: I suppose it would include examination of program of government, proven capability or some kind of political track record and even financial capability. Would those be included in the examination of the nature of the candidacy?

MR. MONSOD: In the situation that I have been familiar with, I do not think the availability of money was really a criterion. It was really the intent to confuse the voters or to frustrate the will of the people in some other way. But mere financial incapacity and even the lack of a broad program of government, as far as I know, have not been part of the criteria for declaring a nuisance candidacy.

MR. BENNAGEN: But what is the basis for saying that there is an intent to confuse the electorate?

MR. MONSOD: A very simple example would be somebody with a similar name.

MR. BENNAGEN: Thank you, Madam President.

MR. ROMULO: I ask that Commissioner Padilla be recognized.

THE PRESIDENT: The Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA: Will the distinguished sponsor answer a few questions?

MR. MONSOD: Willingly, Mr. Vice-President.

MR. PADILLA: I am referring to Section 7, page 4, which is not copied from Section 5 of the 1973 Constitution. On line 3, it mentions here "media of communication or information" and on line 7, it states: "may be supervised or regulated by the Commission."

I recall that during the 1984 elections, the COMELEC issued resolutions on equal time, equal space and equal opportunity when then President Marcos used the entire facilities of radio and television for his Pulong-Pulong program. He used the entire network of these stations three or four times. However, when the Opposition wanted to avail of its right for equal space in the newspapers, equal time in radio and television and equal opportunity, the COMELEC denied the request, ruling that the Pulong-Pulong was a privilege of the Chief Executive and that the opposition political party was not entitled thereto. We appealed this COMELEC decision to the Supreme Court, on which it ruled that the people should be entitled to know the issues and to be apprised of all the qualifications of candidates. In other words, there should be a general information of the people for an intelligent vote on the election. But despite those valid premises, the conclusion was illogical holding that the opposition party had no right to utilize the media even if it were only on Pulong-Pulong while then President Marcos had all the right to air his Pulong- Pulong three or four times.

Will the Committee consider a proposed amendment to ensure equal space, equal time and equal opportunity during the period of election? The past provision, as well as the present one being proposed now says "may be supervised or regulated," which to me is not strong enough to afford the opposition or the other candidates this very important principle of equal space, equal time and equal opportunity.

Another point is: In many countries, especially in Latin America and Spain, I think they recognize what they call *derecho de contestar*, the right to reply. So, if there is a criticism or an attack against a candidate, he has a right to reply. Not only that; if the criticism or the attack published is on page 1, the reply must also be published on page 1 — equal right to reply. Sometimes, the papers quote one's reply on a small paragraph in the inner page while the criticism or the attack is prominently published in the headlines or on page 1 of the newspaper. Will the Committee consider these ideas?

MR. MONSOD: We have inserted in the proposal at hand the phrase "including rates, reasonable free space and time allotments for public information campaigns and forums among candidates" hoping that this would clarify the responsibilities of the COMELEC under this section. Under the Omnibus Election Code, there are very specific provisions on equal time, free time, equal space and so on. If the honorable Commissioner would like to strengthen and clarify this provision in that regard, we would be happy to entertain such amendments.

MR. PADILLA: Thank you.

We want to strengthen this right.

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

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

May we call the attention of the sponsors to page 2, lines 22 to 26 of the draft resolution. May we know if, by "register," they mean "accreditation"?

MR. MONSOD: The COMELEC tried to make a distinction between the two such that "accreditation" referred to certain rights, say, as poll watchers, while "registration" referred to identification of participants in the process.

MR. SUAREZ: So, the registration would be limited to political parties, organizations, or coalitions while the accreditation would be limited to citizens arm of the commission.

MR. MONSOD: That is the recommendation of the COMELEC which we included here.

MR. SUAREZ: Thank you.

The registration would take place only "after sufficient publication."

MR. MONSOD: Yes.

MR. SUAREZ: To complete the records, what exactly does the distinguished sponsor mean by "after sufficient publication"?

MR. REGALADO: What would be sufficient will be provided for in the rules that the COMELEC is authorized to adopt after taking into consideration not only geographic or demographic differences all over the country but the available print media not in the area.

MR. SUAREZ: I take it that the registration would be effected only after sufficient publication shall have been implemented.

MR. REGALADO: That is right; upon proof of the compliance with that publication requirement.

MR. SUAREZ: So that means there is an affidavit of publication of some sort. Thereafter, the registered party, organization, or coalition would be entitled to equal privileges irrespective of the number of members of that party, organization, or coalition.

MR. REGALADO: That is covered there.

MR. SUAREZ: Is my understanding correct?

MR. MONSOD: Yes. They would be entitled to similar rights as any other registered organization.

MR. SUAREZ: Is there no limitation in regard to the number of members of a political party, organization, or coalition in order to be entitled to registration?

MR. MONSOD: If we go back to the Omnibus Election Code, this might answer some other questions. It does say that the rules and regulations would be promulgated by the Commission on Elections and there is a presumption here of reasonable rules and regulations. I would suppose that if there were only five members of an organization who want to register for participation in the elections, the Commission might say that they could not be considered a bona fide party for purposes of participating in the elections.

MR. SUAREZ: So, we would leave the discretion of the matter of registration of these five persons who would form a political party to the Commission on Elections.

MR. MONSOD: That would be a proper subject of legislation by the legislature because that is in the Omnibus Election Code and of the other rules and regulations the COMELEC may promulgate.

MR. SUAREZ: Therefore, the Commissioner does not contemplate that this act of registration would be ministerial in character on the part of the Commission on Elections because it is given the discretion of denying registration to an applicant political party, organization, or coalition?

MR. MONSOD: Yes. First of all, under the same provision there is a general prohibition for registration of organizations which seek to achieve their goals through violence or refuse to uphold this Constitution. In the interest of order there would be some criteria that the law and the COMELEC should adopt.

MR. SUAREZ: May I call the Commissioner's attention to Batas Pambansa Blg. 881, the Omnibus Election Code of the Philippines, particularly to Section 61 thereof, which provides:

Any organized group of persons seeking registration as a national or regional political party may file with the Commission a verified petition attaching thereto its Constitution and by-laws, platform or program of government and such other relevant information as may be required by the Commission. The Commission shall, after due notice and hearing, resolve the petition within ten days from the date it is submitted for decision.

There is this colatilla also:

No religious sect shall be registered as a political party and no political party which seeks to achieve its goal through violence shall be entitled to accreditation.

Did the Committee have that in mind when it drafted this paragraph (5) of Section 2?

MR. MONSOD: Yes.

MR. SUAREZ: So, in addition to the two exceptions, meaning, religious sects and those which seek to achieve their goals through violence and refuse to uphold this Constitution, would the Commissioner admit other exceptions, vesting unto the Commission on Elections the right to deny the registration of the applicant?

MR. REGALADO: As the wisdom of the legislature may arrive at and as the power is given to the COMELEC.

MR. SUAREZ: Thank you.

We notice also that the Committee has changed the wording of Article XII of the 1973 Constitution because this

proposal says that religious sects or those which seek to achieve their goals through violence and refuse to uphold this Constitution shall not be registered. The word "subversion" appearing in the 1973 Constitution was omitted, and instead, the conjunction "and" and the phrase "refuse to uphold this Constitution" were added. What is the compelling reason for that?

MR. FOZ: The phrase, "refusal to uphold this Constitution," would include more or less the advocacy of subversion as a means of gaining political power. So, we thought that by putting this provision disqualifying a party that would refuse to uphold this Constitution, it would cover a similar disqualification on subversion.

MR. SUAREZ: So the Commissioner would equate refusal to uphold this Constitution with the crime of subversion?

MR. FOZ: I did not get the question.

MR. SUAREZ: Is the Commissioner equating the crime of subversion with an alleged refusal to uphold this Constitution for purposes of denying registration to an applicant political party?

MR. FOZ: I would say that this refusal to uphold this Constitution has a broader extent than mere subversion.

MR. SUAREZ: Under the Commissioner's interpretation, it would necessarily embrace the crime of subversion?

MR. FOZ: Yes.

MR. SUAREZ: I notice that the conjunction "and" was used in the clause "which seek to achieve their goals through violence and refuse to uphold this Constitution." These are two different, essential and critical elements. So we joined them together and, therefore, it is imperative that these two elements must be together before denial of an application for registration. Is my understanding correct?

MR. FOZ: As presently worded, that would seem to be so.

MR. SUAREZ: So in addition to resorting through violence to achieve their ultimate goals, we would impose as an additional condition the refusal to uphold this Constitution. Is that correct?

MR. MONSOD: There must have been an oversight because when this was being discussed by the Committee, it was our intent that the word should be "or." We would entertain an amendment to that effect at the proper time.

MR. SUAREZ: My final question is: In the 1935 Constitution, for purposes of accreditation, there is no such prohibition against a religious sect or one advocating change of government through violence. What compelling reasons motivated the sponsors to introduce this particular provision?

MR. FOZ: This proposal aims to prevent the possibility of a religious group or sect from being registered and gaining political power.

MR. SUAREZ: Thank you.

MR. MONSOD: It is the sense of the Committee that perhaps it was not considered necessary at the time of the 1935 Constitution, but it was put into the 1973 Constitution, so we believe that it should be restated in this Constitution.

MR. SUAREZ: Historically speaking, we remember that in the 1935 elections, a certain Monsignor Gregorio Aglipay, representing the Philippine Independent Church, actually ran for President of our country.

MR. REGALADO: We are aware of that.

MR. SUAREZ: That was allowed under the 1935 Constitution. So, under this provision would the Commissioner

deny the possibility that a certain Archbishop Makarios of Cyprus, for instance, would run for President of our country under the Cypriot Episcopalian Church?

MR. REGALADO: That is theocracy.

MR. SUAREZ: Can Jaime Cardinal Sin not run for President of our country under the imprimatur of the Catholic Church?

MR. REGALADO: A theocracy may be adaptable in Cyprus, but I think, it cannot be acceptable in the Philippines.

MR. SUAREZ: In the Omnibus Election Code, there is a provision about the accreditation of a dominant opposition party which is defined as a political party, group or organization or coalition of major national or regional political parties opposed to the majority party which has the capability to wage a bona fide nationwide campaign as shown by the extent of its organization. Is the Commissioner precluding the Catholic Church from indulging in the game of politics?

MR. REGALADO: It is specific that the COMELEC cannot register religious sects. However, Bishop Bacani wanted to rephrase that to refer to religious denominations or aggroupments as the case may be.

MR. SUAREZ: So, the Commissioner is totally eliminating the possible existence of a dominant opposition party, like conceivably, the Catholic Church.

MR. MONSOD: If the Commissioner will notice in our draft, we have eliminated the concepts of majority party and dominant opposition party. But, I think, the prohibition is on any religious organization registering as a political party. I do not see any prohibition here against a priest running as a candidate. That is not prohibited here; it is the registration of a religious sect as a political party.

MR. SUAREZ: So, we are trying to prohibit religious sects from being registered with the COMELEC?

MR. MONSOD: Yes, religious sects are prohibited from forming political parties and engaging in political activities.

MR. SUAREZ: Thank you.

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

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Thank you, Madam President.

Will the distinguished sponsor yield to a few questions?

MR. MONSOD: Willingly.

MR. NATIVIDAD: There are present rules on the functions of inspectors and poll watchers. What would be the function of the poll watchers under this concept?

MR. MONSOD: Under our draft, the representatives of the political parties would be exercising the function of poll watchers under the Election Code. In other words, we are making a distinction between an inspector or a member of the board of election inspectors itself and a watcher. In the present report of the Committee, the representatives of the political parties would function as watchers, but would be disqualified from serving in the board of election inspectors, board of canvassers and so forth.

MR. NATIVIDAD: There would be no more inspectors for political parties?

MR. MONSOD: No more inspectors.

MR. NATIVIDAD: Is there any provision here on the registration of voters?

MR. MONSOD: The only provision is on the powers and functions of the Commission on Elections under Section 2, paragraph 3, line 15, where we talk about the registration of voters.

MR. NATIVIDAD: On page 3, paragraph 7, one of the functions of the COMELEC reads:

Recommend to the legislature effective measures to minimize election spending and prevent and/or penalize all forms of election frauds, offenses and malpractices, nuisance candidacy or other similar acts.

I would like to draw from my experience, from the five times that I was elected as a member of the legislature. One provision in the old Election Code is the minimizing of election spending. But I think in every election, we are confronted with the scandalous situation whereby candidates uncontrollably scatter their propaganda materials everywhere, cluttering the streets and plazas of our country. Walls are plastered with no space anymore. The handsome and not too handsome faces of candidates stare at us wherever we go. Posters and banners of all sizes and shapes will be seen during elections. After the elections, it will be the duty of the community to get rid of the trash at the expense of government.

The COMELEC has a rule on the size of banners and propaganda materials, but this is honored more in the breach than in the compliance. I used to ask myself then: "How could a poor man compete with a rich candidate who plastered the whole province/district with his countless pictures?" He had to try to survive as we had.

So I think this recommendation to the legislature to enact effective measures to minimize election spending is another wishful thinking, because that has always been that way for as long as I can remember. Under both the 1935 and 1973 Constitutions, it has always been a postulate that the legislature shall enact measures to minimize election spending, but election spending was never minimized. I think the only way to minimize election spending — and I learned this from another country — is to exhibit propaganda materials at particular sites designated by the COMELEC. For instance, if the designated place is the plaza, a COMELEC post or bulletin board shall be placed therein where candidates can paste their propaganda materials. In this way, even a very poor candidate can post a mimeographed copy of his biodata on that bulletin board. If we follow this practice, we will train and educate our people to look at the COMELEC bulletin board for the qualifications of candidates for various offices.

However, with this provision, can we expect the legislature to control election spending? Madam President, I dare say this will amount to nothing. We will again be confronted with the same problem during elections where the whole country will be inundated and drowned by all kinds of propaganda materials which the people have to get rid of afterwards. But if we mandate that the COMELEC shall designate a specific place to exhibit these propaganda materials, perhaps this extravagant, unnecessary and whimsical propaganda — that the Filipinos have learned from their experience in politics — will be minimized.

I am just thinking aloud. Is the Committee's mind open in this regard?

MR. MONSOD: One problem is that it seems to partake already of the nature of legislation, and it is useless putting it in the Constitution because we have found from past elections that our politicians were very creative. As a matter of fact, they could make the opposition candidate a violator by posting his posters in prohibited places. There are other ways to violate these laws.

In the final analysis, I think the best lesson in preventing overspending — unfortunately habits die hard — is to recall that in the past elections candidates who spent much money, in fact, lost. And this could be a deterrent in the future.

We agree with the Commissioner that some laws are very difficult to implement. As a matter of fact, in the last elections, there was a very big KBL sign on top of the Manila Hotel and this was the subject of a petition to remove filed with the COMELEC. That sign was removed, but not those in other places. We agree with the Commissioner that it is very difficult to implement, but to be silent about it would not solve the problem either.

MR. NATIVIDAD: I realize that; legally speaking, when we look at it, maybe it should be in the law. But we have waited so long for the past legislature to enact such a law. This is our opportunity to make the legislature feel that there is a need for it. Why do we not just indicate that need, so that future candidates will not be placed in a situation where they have to outlive each other in terms of propaganda materials. I think it is about time.

I have been in politics since 1961, and based on my experience, it is now the right time to indicate in the Constitution a need for such a law. The law should indicate the particular place where these propaganda materials could be placed. The Commissioner cited the case of the Manila Hotel KBL signboard. Had there been a law to that effect, that would not have happened.

MR. MONSOD: The Commissioner may submit his proposal at the proper time, and we can submit it to the body for consideration.

MR. NATIVIDAD: Yes, I am just "testing the water," if the Committee's mind is open in this regard.

Thank you very much.

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

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

I like to ask questions, if the sponsors would yield.

MR. MONSOD: Willingly.

MR. OPLE: Thank you.

My concerns for the moment have to do with the multiparty system, registration and deregistration, and the possibility of the utilization of elections to subvert national sovereignty through foreign contributions to political parties.

So, may I start with Section 5 on page 3, which has already been the subject of a comment by Commissioner Suarez which states:

Political parties or organizations or coalitions registered under the party-list system shall not be represented in the voters' registration boards, boards of election inspectors, boards of canvassers or other similar bodies.

Does this section contemplate a disengagement of the new Constitution from the two-party system in the Constitution of 1973?

MR. MONSOD: Yes.

MR. OPLE: Therefore, it is opening the constitutional political arena to any political party, so that in that sense a multiparty system, in lieu of a two-party system, is going to be installed under Section 5?

MR. MONSOD: Section 5 recognizes the change in the principle here from a two-party system to a multiparty system, but the mere prohibition of representation by political parties in the boards of election inspectors and canvassers does not give birth to a multiparty system.

MR. OPLE: In effect, it is removing the constraints on a freely evolved party system, the outcome of which is most probably a multiparty system.

MR. MONSOD: Yes.

MR. OPLE: During the period of amendments, will the Committee consider amending this provision so that if the intendment is to promote a freely evolved and open party system which is, in effect, a multiparty system, it will come out with greater clarity?

MR. MONSOD: Yes, we would be happy to entertain the Commissioner's proposal at the proper time.

MR. OPLE: Thank you very much.

Paragraph (5) of Section 2 which concerns the registration of political parties, organizations or coalitions, states that religious sects or those which seek to achieve their goals through violence and refuse to uphold this Constitution, shall not be registered. May I ask the Committee if this paragraph which empowers the COMELEC to register parties contemplates that this power also carries with it the power to deregister parties upon a determination of violations that they have committed?

MR. MONSOD: Yes.

MR. OPLE: Concerning religious sects which may not be registered at all, may I offer the example of political parties not really synonymous with religious sects but which derive their fundamental inspiration and philosophies from religious beliefs. Good examples are the Christian democratic parties of Europe. For the past 200 years or so, they have been flourishing in that political climate of Europe. Other good examples are certain Catholic parties to be found in some places. There is in Japan a professedly Buddhist party professing a belief in good government. I think this is the Sokka Gai. Are these political parties which derive their fundamental inspiration and political philosophies from certain religious faiths embraced within the prohibition of this Article for purposes of registration? A more specific example is the Christian Social Movement which I think our friend Raul Manglapus has announced he would like to revive. Is this not encompassed by this prohibition?

MR. REGALADO: It is not, otherwise the present parties here which derive their faith from the Catholic religion will also be disqualified.

MR. OPLE: Thank you very much.

In the event that a certain religious sect with nationwide and even international networks of members and supporters, in order to circumvent this prohibition decides to form its own political party in emulation of those parties I had mentioned earlier as deriving their inspiration and philosophies from well-established religious faiths, will that also not fall within this prohibition?

MR. MONSOD: If the evidence shows that the intention is to go around the prohibition, then certainly the COMELEC can pierce through the legal fiction.

MR. OPLE: I thank the Commissioner for that answer.

What about this clause prohibiting groups that seek to achieve their goals through violence and refuse to uphold this Constitution? How is the ground for denial of registration to be determined? Is it on the basis of their platforms, overt acts or of court decisions? I do not think anyone will go to the COMELEC for registration and profess belief in violence. I suppose the COMELEC will have its own mechanism for adjudicating this when a complaint arises.

MR. REGALADO: The COMELEC will have to adopt certain criteria and guidelines for determination. That is

why it is required that there be prior sufficient publication before registration.

MR. OPLE: I thank the sponsor for that partial answer. I will now go to hypothetical examples. The Communist Party of the Philippines — I am referring to the 1968 CPP not to the 1930 PKP — obviously does not subscribe to the Constitution whether it is the 1973 Constitution or the current Freedom Constitution under Proclamation No. 3, and neither may it be reasonably expected to profess to uphold this new Constitution once it comes into force and effect. I think the proof should be self-evident in the sense that they have an army in the countryside which is actually waging an armed struggle against the state. However, the Partido ng Bayan is now being organized with Mr. Jose Maria Sison, the founder of the CPP of 1968, as the Chairman of the Preparatory Committee. As soon as the Preparatory Committee phases itself out and this becomes a full-fledged party, the new leader will be the former detainee, Horacio Morales, previously of the Development Academy of the Philippines. The Partido ng Bayan subscribes to the Constitution, and yet, from a certain ideological point of view, it will not be too dissimilar from the platform and program of the CPP, perhaps, with a certain overlap of membership in addition to overlapping philosophies.

Under this paragraph S of Section 2, I suppose the Partido ng Bayan will qualify for registration, Madam President?

MR. REGALADO: Can I answer?

In the first place, we stated here that this conjunction "and" here should properly be "or." There was a typographical error. So, it would read: "those which seek to achieve their goals through violence OR refuse to uphold this Constitution." Thus, even if they ostensibly offer to uphold the Constitution but their program seeks to achieve their goals through violence, they would still be disqualified.

MR. OPLE: Yes, of course, if there is a multiparty system and the parties subscribe to the Constitution, then, I suppose they are qualified for registration. The burden of proof that they are not qualified will have to rest on those who will file complaints. Is that a correct reading of the Commissioner's intent?

MR. REGALADO: They will have to file a verified statement. The same shall be checked, if necessary, by the military intelligence. People who have derogatory information about them can make the corresponding reports because there is prior publication, and that is without prejudice to the action of the commission itself.

MR. OPLE: Assuming that these parties — I am not referring now to any specific party — are found later to have committed breaches of the Constitution, appearing right here in paragraph 5 of Section 2, can the COMELEC then, under this provision, exercise its power to deregister such parties upon verification of the charges of violation against them, and following the observance of due process under the Bill of Rights?

MR. REGALADO: We have to make a distinction first. If the breaches of the Constitution the Commissioner refers to were committed prior to registration — since what is referred to here as post registration is their affirmation of the desire to uphold the Constitution — we have to make a distinction as to whether those breaches were also in line with their attempt to achieve their goals through violence. If that is so, then the COMELEC can deregister them.

MR. OPLE: I thank the Commissioner for that.

My last question has to do with what I earlier said could be future attempts to subvert the national sovereignty from overseas, through foreign contributions to our political parties. As we will recognize, contemporaries are already replete with examples of such attempts at capturing governments through political parties with money. The most recent documented example of this was when US \$8 million — this is according to the records of a U.S.

Senate investigation group — was passed on from the United States through some Christian democratic parties in Europe, to Chile, in order to help destabilize the Marxist government of Allende who, as we know, subsequently was assassinated after winning a presidential election in that country.

I am not prepared to state that I have any reasonable evidence or that anybody else may have reasonable evidence about the uses of foreign funding to influence political parties in the Philippines. But I think we will have to admit that this is an ever present possibility.

Does this draft Article of the Committee contain any safeguard against this risk and danger?

MR. MONSOD: The constitutional provisions do not contain that although that is contained in the Omnibus Election Code.

MR. OPLE: Yes.

Will the Chairman then consider, at the proper time, a brief provision containing this concern that we have expressed somewhere in the draft Article on the Commission on Elections?

MR. MONSOD: We would be willing to entertain such an amendment.

MR. OPLE: Thank you so much, Madam President; I also thank the sponsors.

MR. ROMULO: Madam President, there are no further speakers registered. But before going to the period of amendments, may I move that we proceed to the additional Reference of Business?

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

The Secretary-General will read the additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

The Secretary-General read the following additional Committee Reports, the President making the corresponding references:

COMMITTEE REPORTS

Committee Report No. 30 on Proposed Resolution No. 530, prepared by the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON SUFFRAGE,

recommending its approval in substitution of Proposed Resolution Nos: 8, 99, 161, 199, 246, 370 and 405.

Sponsored by Hon. Laurel, Jr., Bernas, Abubakar, Colayco, Sarmiento, Tadeo, Garcia, Villegas, Rodrigo, Bennagen, Lerum, Bacani, Padilla and Natividad.

To the Steering Committee.

Committee Report No. 31 on Proposed Resolution No. 531, prepared by the Committee on General Provisions, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE CONSTITUTION AN ARTICLE ON GENERAL PROVISIONS AND A SECTION IN THE TRANSITORY PROVISIONS,

recommending its approval in substitution of Proposed Resolution Nos. 49, 80, 88, 95, 97, 133, 142, 172, 174, 200, 203, 215, 230, 243, 260, 267, 271, 306, 307, 315, 328, 341, 345, 351, 390, 395, 408, 420, 423, 436 and 493.

Sponsored by Hon. Rosario Braid, Bacani, Aquino, de Castro, Foz, Gascon, Maambong, Natividad, Nollado, Rigos, Uka, Bennagen, Brocka, Davide, Jr., de los Reyes, Jr., Garcia, Guingona, Ople, Quesada, Sarmiento, Suarez, Tadeo, Tan, Treñas, Tingson and Villacorta.

To the Steering Committee.

MR. ROMULO: Madam President, may I move for a suspension of the session and may I request that those interested in making amendments now confer with the Chairman of the Committee.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 5:02 p.m.

RESUMPTION OF SESSION

At 5:33 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

CONSIDERATION OF PROPOSED

RESOLUTION NO. 521

(Article on the Commission on Elections)

Continuation

PERIOD OF AMENDMENTS

MR. ROMULO: Madam President, I move that we close the period of sponsorship and debate on Proposed Resolution No. 521 and that we move to the period of amendments.

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

MR. ROMULO: May I ask the proponents with possible amendments to register with me?

Madam President, I ask that Commissioner Maambong be recognized.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Thank you, Madam President.

I move to introduce an amendment on Section I of the Commission on Elections, line 14. After the word "years," insert this sentence: ONE-THIRD OF THE COMMISSION SHALL BE APPOINTED FROM A LIST OF QUALIFIED PERSONS RECOMMENDED BY OPPOSITION PARTIES.

I have explained this addition during the period of sponsorship and debate on the Common Provisions. I will not repeat what I have said. I will only add that the most serious attack against the previous administration was that the Commission on Elections was perceived to be manned by the Chairman and Commissioners who were beholden to the President. As a matter of fact, I am just surmising that because of that serious attack, there were members appointed to the Commission on Elections who were perceived to be independent-minded, and if I remember correctly, it was also the perception that when the present Chairman, the Honorable Ramon Felipe, Jr., was appointed, he was specifically placed there in representation of the opposition. Of course, in fairness to the Chairman of the COMELEC, he is well-qualified for the job; he has been a Congressman himself and he also claimed that he was not really appointed because he was an Opposition member.

However, in order to obviate these attacks against the integrity of the Commission on Elections, especially because it is involved in the election of officials all over the land, I now seek to introduce this amendment by

addition.

THE PRESIDENT: Will the Commissioner please repeat the amendment on line 14?

MR. MAAMBONG: The sentence would read: ONE-THIRD OF THE COMMISSION SHALL BE APPOINTED FROM A LIST OF QUALIFIED PERSONS RECOMMENDED BY OPPOSITION PARTIES.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: The Committee regrets that it cannot accept that amendment for the reason that as a neutral arbiter of the election process, we would like to insulate the Commission on Elections from politics. Just because there were abuses in the appointing power before, the solution is not to enshrine politics in the commission but to try to preserve and insulate it from such politics.

So the Committee regrets that it cannot accept the proposed amendment.

THE PRESIDENT: Does Commissioner Maambong insist on his amendment?

MR. MAAMBONG: I would insist on putting the issue to a vote, Madam President.

VOTING

THE PRESIDENT: We will put the amendment to a vote.

Those in favor of the proposed amendment of Commissioner Maambong on line 14 will please raise their hand.
(Few Members raised their hand.)

Those against the amendment will please raise their hand. (Several Members raised their hand)

The results show 5 votes in favor and 18 against; the amendment is lost.

May we go section by section?

MR. ROMULO: Yes, Madam President.

Commissioner Maambong has another amendment on Section 2.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, this amendment is practically accepted by the Committee. On line 16, Section 1 (2), after "President," insert the words WITH THE CONSENT OF THE COMMISSION ON APPOINTMENTS. As a consequence of that, on lines 17 and 18, delete the sentence "Appointments to the Commission need no confirmation."

THE PRESIDENT: Is the amendment accepted by the Committee?

MR. FOZ: The Committee accepts the amendment.

MR. MAAMBONG: Thank you, Madam President.

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

Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I just wanted to make of record that the reason we put this provision is that we were precisely afraid that the COMELEC which deals with politics might now be beholden to politicians. That was the reason for this provision. However, we have accepted the amendment because we yield to the judgment of

the body the need for checks and balances with respect to the constitutional commissions.

MR. ROMULO: May I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The amendment will be on line 11 of the first paragraph of Section 1. After the word "degree," add a comma (,) and the phrase AND MUST NOT HAVE AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE POSITION IN THE IMMEDIATELY PRECEDING ELECTION."

THE PRESIDENT: Is the amendment accepted by the Committee?

MR. MONSOD: It is accepted, Madam President.

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

MR. DAVIDE: As a consequence of that, I would now seek to amend line 10 by deleting the word "and" before the word "holders" and substituting it with a comma (,).

THE PRESIDENT: How will that read?

MR. DAVIDE: The provision will read: "least thirty-five years of age, holders of a college degree AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE POSITION IN THE IMMEDIATELY PRECEDING ELECTION."

THE PRESIDENT: Is the amendment accepted by the Committee?

MR. MONSOD: Yes. Madam President.

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

MR. DAVIDE: Madam President, on line 19, Section 1 (2), after the word "Members," add a comma (,) and the phrase INCLUDING THE CHAIRMAN, then another comma (,).

THE PRESIDENT: Is the amendment accepted by the Committee?

MR. MONSOD: Madam President, if we accept that amendment, then it may be, first of all, class legislation in favor of one person.

Secondly, it would open the possibility of the present Chairman serving for more than seven years. It is the intent of this Committee that no Member of the Commission will serve for more than seven years.

MR. DAVIDE: Madam President, the reason for the proposal is that among the seven commissioners to be appointed, one has to be the chairman and the chairman must necessarily serve for a period of seven years. Of all the commissioners, the chairman must be given the priority for a term of seven years. It will not apply to the incumbent chairman; the proposal has no reference whatsoever to the incumbent chairman. Besides, the incumbent chairman cannot even be reappointed under the existing provision of the 1973 Constitution.

MR. FOZ: But for the information of the Gentleman, we intend to propose a provision in the Transitory Provisions to the effect that incumbent members of the constitutional commissions may be among those first appointed under this Constitution, in fairness to those who are now in office. Otherwise, they will be foreclosed

from being appointed under this Constitution.

MR. DAVIDE: But the Committee has not recommended a provision for the Article on Transitory Provisions.

MR. FOZ: I have submitted the proposed provision to the Committee and it is pending consideration in the Committee.

MR. DAVIDE: If the intention of the Committee is to have one provision in the Transitory Provisions to allow the incumbent chairman to continue serving such, it might destroy the "staggered" term provided for, insofar as the first commissioners appointed are concerned.

MR. FOZ: No, but we take cognizance of the fact that if we apply this to the incumbents, we are not referring to Chairman Felipe alone but to the present members of the constitutional commissions; it would be quite unfair to those who are now holding the positions. In the case of the COMELEC, in view of the expectations that some of the incumbents may be replaced before the holding of the plebiscite or before this Constitution takes effect after ratification, then those appointed before this Constitution is ratified will serve only for less than a year and the replacements will serve for only several years and they would be barred from being appointed under this Constitution. That is the unjust situation we are trying to avoid.

MR. DAVIDE: I would have no quarrel with that but if that is the intention, that should also be applicable to the Civil Service Commission.

MR. FOZ: That is applicable to all three commissions.

MR. DAVIDE: In short, the staggered term provided for under the three subsections — Commission on Audit, Civil Service Commission and the Commission on Elections — will be destroyed.

MR. FOZ: No.

MR. MONSOD: Actually, it puts an obligation on the appointing power. For example, in the case of the COMELEC, should the appointing power decide to reappoint the incumbent chairman, then the appointment must be for less than the seven years. In other words, the appointing power must count how many years the commissioners have served because they may be appointed for three years only so that the seven years maximum aggregate tenure will not be violated.

MR. DAVIDE: Would not the Commissioner believe that the appointing authority may immediately violate this particular provision on the staggered scheme, if he will be given the discretion to determine the term for the extension of the incumbents?

MR. FOZ: No, precisely; we are trying to put in that provision under the Article on Transitory Provisions for an orderly implementation of the staggered system. The staggered system will start with the first appointment under this new Constitution.

MR. DAVIDE: What will happen if that proposal in the Transitory Provisions will not be approved by the Committee?

MR. MONSOD. If the Gentleman takes a look at the first sentence of this provision, it says that the appointment may be for a term of seven years without reappointment. We are only providing for such a move in the Transitory Provisions. We are hoping that the Transitory Provisions will be approved because it is in coordination with this one.

MR. DAVIDE: I am willing to defer the presentation of my amendment and I would move, Madam President, that even if the entire subdivision on the COMELEC may be approved on Second Reading, it may be reopened

precisely to accommodate the possibility of an amendment on this particular paragraph in the event that the Committee on Transitory Provisions will not approve the resolution presented by Commissioner Foz on this matter.

MR. MONSOD: We are amenable to that.

THE PRESIDENT: The reservation is noted.

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

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I propose the following amendment. On page 2, subparagraph 2, line 9 . . .

MR. DE LOS REYES: Anterior amendment, Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: On line 3, page 2, between the words "appointed" and "in," insert the phrase OR DESIGNATED. That has always been consistently accepted

MR. MONSOD: We accept the amendment.

THE PRESIDENT: The amendment has been accepted.

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

MR. RODRIGO: On page 2, line 9 . . .

MR. MAAMBONG: Madam President, I am sorry to interrupt again but I have another anterior amendment.

THE PRESIDENT: Commissioner Maambong may proceed.

MR. MAAMBONG: On page 2, line 7, I have the intention to delete the word "recalls" unless the Committee can give the body the assurance that "recalls" will be instituted either in this Constitution or in laws passed by the legislature.

MR. MONSOD: The right to recall is actually contained in the Local Government Code. So, we would prefer to leave this in case the COMELEC is called upon to administer such recall.

MR. MAAMBONG: It is indeed in the Local Government Code and with that statement, I withdraw my intention to delete the word "recalls."

Thank you, Madam President.

THE PRESIDENT: Will Commissioner Rodrigo now proceed and not be interrupted?

MR. RODRIGO: I would like to ask first: Is there any other anterior amendment? (Silence)

As I was saying, on page 2, line 9, delete the words "be the sole," capitalize the first letter of the word "judge," and also delete the word "of" between "judge" and "all." So, the sentence will read: "Judge all contests relating to the elections, returns and qualifications of all elective provincial, city, municipal and barangay officials."

THE PRESIDENT: Does the Committee accept the amendment?

MR. FOZ: The Committee accepts the amendment.

MR. DE LOS REYES: Madam President, may we offer an amendment to the amendment?

THE PRESIDENT: Commissioner de los Reyes may proceed.

MR. DE LOS REYES: Will the Commissioner please read again his amendment?

MR. RODRIGO: "Judge all contests relating to the elections, returns and qualifications of all elective provincial, city, municipal, and barangay officials."

MR. DE LOS REYES: The amendment will be on line 11. After the word "provincial," we add the words AND CITY OFFICIALS IN ITS ORIGINAL JURISDICTION, AND MUNICIPAL AND BARANGAY OFFICIALS, IN ITS APPELLATE JURISDICTION.

THE PRESIDENT: Let us first finish the amendment of Commissioner Rodrigo with respect to starting the sentence with the word "Judge."

MR. DE LOS REYES: I withdraw my amendment in the meantime.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Will the proponent yield to some questions for clarification?

MR. RODRIGO: Certainly.

MR. DAVIDE: With the proposal of the Gentleman, would it mean that the National Assembly, by law, will provide for any other court to be vested with the authority to decide cases relating to elections, returns and qualifications of the elective officials enumerated in the subparagraph?

MR. RODRIGO: No, the reason I removed the words "sole judge" is that in Section 10, it is provided that final decisions, orders or rulings of the Commission on election contests involving elective municipal and barangay officials shall be final, unappealable and executory. So it is only in cases involving municipal and barangay officials that the rulings of the COMELEC are final and executory.

When we say the COMELEC is the sole judge of all contests, even for elective provincial and city officials, it connotes that its decisions even in such cases are final and executory. That is why I would like to remove those words "sole judge."

MR. DAVIDE: Madam President, I understand that the phrase "sole judge" would refer to the exclusive original jurisdiction of the COMELEC in these cases. My fear is, if we remove the word "sole," it might open the possibility of the National Assembly enacting a law vesting another tribunal with the authority to decide on all these cases, making these cases cognizable by two entities with concurrent jurisdiction: one, the COMELEC; and the other, possibly an ordinary court, which is not really the intention.

MR. RODRIGO: I see the point of the Gentleman. How about the phrase HAVE SOLE JURISDICTION OVER all contests or EXERCISE SOLE JURISDICTION of all contests? Would that satisfy the Gentleman?

MR. DAVIDE: Probably instead of "sole," we use the word EXCLUSIVE. "EXERCISE EXCLUSIVE JURISDICTION."

MR. RODRIGO: Yes, I accept the amendment to the amendment.

Thank you very much.

THE PRESIDENT: Will the Commissioner please read the amendment now?

MR. RODRIGO: "HAVE EXCLUSIVE JURISDICTION OVER all contests relating to the elections, returns and qualifications of all elective provincial, city, municipal and barangay officials."

MR. MAAMBONG: Madam President, before we rule on that motion, I ask that I be allowed to expound my proposed amendment which could be affected also by the amendment proposed by Commissioner Rodrigo, considering that my proposed amendment has been lengthily discussed in the Committee, and the Committee has acceded to this amendment. The amendment of Commissioner Rodrigo inserted on the first line of line 9 would affect my proposed amendment. So, I move to defer consideration of the amendment proposed by Commissioner Rodrigo with the indulgence of the Chair.

MR. RODRIGO: Is the amendment of the Gentleman an anterior amendment?

MR. MAAMBONG: It is not, Madam President. That is precisely why I am moving to defer consideration of the proposed amendment of the Gentleman.

MR. RODRIGO: But why should the consideration of my amendment be dependent on the Gentleman's subsequent amendment?

MR. MAAMBONG: Because it would actually affect the whole jurisdictional process, and to obviate the possibility of going back to the Gentleman's amendment if it will be approved.

MR. RODRIGO: What line is the amendment of the Commissioner?

MR. MAAMBONG: It is on line 11.

MR. RODRIGO: Line 11. But even if my amendment is anterior . . . For compañerismo, I yield to the amendment of the Gentleman.

MR. MAAMBONG: Thank you very much.

SUSPENSION OF SESSION

MR. FOZ: Madam President, may we request a suspension of the session? Maybe we can resolve the problem.

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

It was 5:58 p.m.

RESUMPTION OF SESSION

At 6:12 p.m., the session was resumed

THE PRESIDENT: The session is resumed.

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

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I yield to Commissioner Maambong.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, there was an amendment proposed by Commissioner Rodrigo which has not yet been acted upon. I would rather ask Commissioner Rodrigo to present that amendment before I present my own which has already been taken care of by the Committee anyway.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: The amendment of Commissioner Maambong already includes my amendment.

THE PRESIDENT: Commissioner Maambong will please proceed.

MR. MAAMBONG: In that case, Madam President, may I proceed to propose this amendment in collaboration and with the advice and consent of Commissioner de los Reyes and Commissioner Rodrigo.

THE PRESIDENT: What is the amendment?

MR. MAAMBONG: On line 9, Section 2 (2), delete the words "Be the sole judge of" and in its stead insert the words EXERCISE EXCLUSIVE JURISDICTION OVER. On line 11, before the word "provincial," insert the word REGIONAL and a comma (.). After the word "provincial" on line 11, insert the word AND. After the word "city," delete the comma (,) and the words "municipal and barangay." After the word "official," place a comma (,) and insert the following: AND OF ALL CONTESTS INVOLVING MUNICIPAL AND BARANGAY OFFICIALS ON APPEAL FROM THE REGIONAL TRIAL COURTS AND FROM METROPOLITAN OR MUNICIPAL TRIAL COURTS, RESPECTIVELY.

I move for the approval of the amendment, Madam President.

THE PRESIDENT: Is this amendment accepted by the Committee?

MR. REGALADO: Yes, Madam President.

THE PRESIDENT: So, this is an amendment jointly submitted by Commissioners Rodrigo, Maambong and de los Reyes.

MR. MAAMBONG: Yes, Madam President.

THE PRESIDENT: Is there any objection to the amendment on Section 2 (2), lines 9 and 11? (Silence) The Chair hears none; the amendment is approved.

MR. MAAMBONG: Madam President, as a consequence of that approved amendment, if I may be allowed to jump to Section 10 so that we will not go back and forth later on, I would like to propose the following amendments on Section 10.

THE PRESIDENT: The Gentleman may proceed.

MR. MAAMBONG: On page 4, line 20, Section 10, delete the word "Final," capitalize the "d" in the word "decisions" and insert the word FINAL before the word "orders." On line 21, "Election" should have a small letter; on line 22, delete the word "inappealable" and after the word "and" on line 22, insert the word IMMEDIATELY. The final provision with this amendment would read: "DECISIONS, FINAL orders or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final and IMMEDIATELY executory."

I move for the approval of the amendment, Madam President.

THE PRESIDENT: Is the amendment accepted by the Committee?

MR. REGALADO: Yes, Madam President.

MR. MAAMBONG: Thank you, Madam President.

THE PRESIDENT: The proposed amendment on Section 2 has been accepted by the Committee.

Is there any objection to the said amendment?

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: There is just one point I would like to ask the proponent of the amendment. In his amendment, there is mention of the term "regional trial court."

MR. MAAMBONG: Is the Gentleman referring to Section 2 (2)? Yes, I did say "regional trial courts."

MR. REGALADO: On Section 2, he mentions Regional Trial Courts and Metropolitan and Municipal Trial Courts.

MR. FOZ: Will there not be any basic objection to mentioning the terms "regional trial court" in the Constitution?

MR. MAAMBONG: There is no objection to that; I do not think there is any objection to that. We are only trying to specify that when it comes to election contests involving municipal officials, the court of first jurisdiction would be the regional trial court.

MR. FOZ: Suppose there is a new reorganization in the judiciary and the term regional trial court is changed to another term, what would be the effect?

MR. MAAMBONG: I would rather that an authority on jurisdiction be asked. We have such an authority in the person of Commissioner Regalado. I hope he will reply to that.

MR. REGALADO: Not an authority. It is just necessary at this stage because of the original jurisdiction being distinguished from the regional trial courts and the municipal or metropolitan trial courts. We have perforce to use the names as they are now under P.D. No. 129, otherwise we cannot make that distinction. To change the name from regional trial court, let us say, back to the court of first instance or municipal trial courts back to the old name, municipal courts, will necessarily involve legislation because this was created by P.D. No. 129. So, if a future legislation would change the names, it is understood that the new names will apply mutatis mutandis to the name of the court at the time of the adoption of the Constitution.

MR. MAAMBONG: I would like to adopt that answer.

MR. FOZ: So, it means that the legislature is not prevented from changing the name of the regional trial court?

MR. REGALADO: Of course not, that is understood. How else can we distinguish?

MR. FOZ: Thank you.

SUSPENSION OF SESSION

THE PRESIDENT: The Chair suspends the session for a few minutes.

It was 6:22 p.m.

RESUMPTION OF SESSION

At 6:40 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: With the permission of the Committee and of the body, I move for a reconsideration of the approval of the amendments which Commissioner Rodrigo, Commissioner de los Reyes and I proposed on

Section 2 (2).

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

MR. MAAMBONG: There is no substantial variance in the new proposed amendment except in the words I will now mention after the word "officials" on line 11, page 2. After the word "officials," put a comma (,) and insert the following amendment: AND OF ALL CONTESTS INVOLVING MUNICIPAL OR BARANGAY OFFICIALS ON APPEAL FROM TRIAL COURTS OF GENERAL JURISDICTION AND FROM TRIAL COURTS OF LIMITED JURISDICTION, RESPECTIVELY.

So, the whole provision would now read: "(2) Exercise exclusive jurisdiction over all contests relating to the elections, returns and qualifications of all elective regional, provincial and city officials, AND OF ALL CONTESTS INVOLVING MUNICIPAL OR BARANGAY OFFICIALS ON APPEAL FROM TRIAL COURTS OF GENERAL JURISDICTION AND FROM TRIAL COURTS OF LIMITED JURISDICTION, RESPECTIVELY."

THE PRESIDENT: Is that accepted by the Committee?

MR. REGALADO: Yes, Madam President, it being understood that the trial courts of general jurisdiction referred to here are presently known as regional trial courts, formerly known as courts of first instance, and that the trial courts of limited jurisdiction refer to what are presently known as metropolitan trial courts, municipal trial courts, municipal circuit trial courts, formerly known as city courts or justice of the peace courts.

MR. MAAMBONG: That is correct, Madam President, at the present setting.

MR. SUAREZ: Madam President, may I be recognized for some clarificatory questions?

THE PRESIDENT: Yes, Commissioner Suarez is recognized.

MR. SUAREZ: The Gentleman employed the word "regional" anteceding the word "provincial." Exactly what kind of elections does he have in mind when he was thinking in terms of a regional election? .

MR. MAAMBONG: I specifically inserted the word "regional" with the consent of the Committee because, firstly, the Omnibus Election Code, specifically Articles 249 and 250, speaks of regional elections. I understand that the word "regional" was inserted in the Omnibus Election Code because there are actually regional elections in other areas of the country in the present regional autonomous regions. I also foresee the possibility that if the legislature, using its power, will conduct or open up the avenue of regional elections in other regions, it may already be very hard to amend our Constitution to suit that purpose. So, in the event that there will be such regional elections not only in the regional autonomous regions at present but in other regions of the country, I saw fit to insert the word "regional." At any rate, if there will be no other regional elections, it will not do harm to the Constitution.

MR. SUAREZ: In the event that a bicameral system of legislature would be established under this new Constitution, does the Gentleman also have in mind a regional election for members of the Senate?

MR. MAAMBONG: Perhaps, Madam President, but that would be entirely a different concept because when we talk of Senate elections or Upper House elections on a regional level, that would not be local elections. That would partake of the nature of national elections and that would be governed by other provisions of law.

MR. SUAREZ: A situation may arise where there is a vacancy in the Senate and a regional election may be called, assuming, of course, that the Senators would be elected on a regional basis. So, is the Gentleman precluding from the operation of this provision that possibility of a regional election for members of the Senate?

MR. MAAMBONG: No, Madam President. What I am only trying to say is that the regional elections we envisioned in Section 2 (2) are actually local elections. What the Gentleman is referring to is a regional election which is classified properly as a national election because it is for positions in the national legislature. Although the election is in the regional level, that is actually classified as a national election and another law would have to apply, not Section 2 (2).

MR. SUAREZ: Thank you for the clarification.

The second point is about the election contests being decided by the courts mentioned in the Gentleman's proposal. Do I take it that the jurisdiction that would be exercised over such situations or developments by the Commission on Elections will be in the nature of an appellate jurisdiction?

MR. MAAMBONG: That is correct, Madam President.

MR. SUAREZ: So, the Gentleman would vest upon the Commission on Elections power superior to that of the ordinary courts of justice in matters of election contests?

MR. MAAMBONG: Yes, Madam President.

MR. SUAREZ: In the ultimate analysis, would that preclude a resort to an appeal in the Supreme Court from a ruling or a decision in the exercise of the appellate jurisdiction of the Commission on Elections?

MR. MAAMBONG: We have to qualify that answer because it really depends on the level where the action is filed — if it is in the barangay level, municipal level or provincial level. There is a hierarchy of jurisdiction and appeals in those cases and it can be gleaned later on from the reading of our Section 10 which will be amended in a short while. So, to discuss whether the decision of the COMELEC is subject to appeal would take us a long time. I think it would be better to go over the law because there are several provisions there.

MR. SUAREZ: So, if I will be clear about it the matter of election contests could emanate from the courts and could be appealed to the Commission on Elections and thereafter could be appealed further to the Supreme Court.

MR. MAAMBONG: Since the question is specific, we might as well answer it in specific terms. If it is a barangay election contest which will be filed in what we call now as a trial court of limited jurisdiction — right now, it is the municipal trial court or the municipal circuit trial court or the metropolitan trial court — the decision is appealable to the COMELEC. As envisioned in Section 10, once the Commission on Elections decides on that barangay election contests, the decision would be final, executory and not appealable.

That is also the same in the case of a municipal election contest which emanates from what is known as a court of general jurisdiction. When it is appealed to the Commission on Elections, under Section 10, the decision would be final, executory and not appealable.

MR. SUAREZ: Thank you for the several clarifications.

MR. MAAMBONG: Thank you, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: We shall first put it to a vote. Is there any objection to this revised Section 2 (2), as read by Commissioner Maambong? (Silence) The Chair hears none; the amendment is approved.

Will the Gentleman proceed to Section 10?

MR. MAAMBONG: Yes, Madam President. This is related to Section 10. We started with our amendments a short while ago and we will now restate the amendment because it somehow got lost in the discussion. After the

amendments, the final section, Section 10, on line 20 of page 4 would now read: "DECISIONS, FINAL orders or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, EXECUTORY AND NOT APPEALABLE."

I move for the approval of the amendment, Madam President.

THE PRESIDENT: Is the amendment accepted by the Committee?

MR. REGALADO: The Committee accepts the amendment.

THE PRESIDENT: The said amendment having been accepted by the Committee, is there any objection? (Silence) The Chair hears none; the amendment is approved.

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

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Thank you, Madam President.

First, I want to thank Commissioner Ople for giving way since I would like to be excused after this to celebrate mass for the family of Commissioner Rene Sarmiento.

The amendment is on page 2, Section 2 (5), line 24, I propose an amendment by deletion: Delete the words "religious sects, or" so that the provision says, "except that those which seek to achieve their goals through violence and refuse to uphold this Constitution, shall not be registered."

Will you allow me to explain the reason for the amendment.

THE PRESIDENT: The Gentleman may proceed.

BISHOP BACANI: The reason for the amendment is this: There may be a religion that may arise in our country whose aim is precisely to seek temporal reforms and will want to use a strategy to enter into the political arena. Hence, a discrimination against the members of the religious sect will mean a curtailment of their religious freedom. So, I suggest that this be deleted from this portion.

THE PRESIDENT: Is this acceptable to the Committee?

MR. SUAREZ: Madam President, may we be recognized for an amendment to the amendment.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: I sympathize with the sentiments of Monsignor Bacani regarding this matter. So, may I propose an amendment to the amendment to delete the entire phrase beginning with the word "except" and ending in the word "registered," then put a period (.) after the word "Commission."

BISHOP BACANI: I would like to accede to that but the text, "those which seek to achieve their goals through violence and refuse to uphold this Constitution," goes directly against the existence of the state. Hence, it seems that they cannot be accredited as political parties.

The religions do not go directly contrary to the existence of the state, and there will be a fundamental difference. Hence, I am sorry to say that I will have to refuse the amendment.

THE PRESIDENT: So we will just take the amendments by piece. May we have the amendment of Commissioner Bacani first.

BISHOP BACANI: So, the sentence will now read:

"Register after sufficient publication, political parties, organizations or coalitions and accredit citizens arms of the Commission, except that those which seek to achieve their goals through violence and refuse to uphold this Constitution, shall not be registered."

THE PRESIDENT: May we know the position of the Committee on the proposed amendment to delete the words "religious sects" on line 24?

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: The word "and" on line 25 between "violence" and "refuse" should be OR. I think Commissioner Bacani overlooked that.

BISHOP BACANI: Yes, excuse me. It should be "OR. "

MR. MAAMBONG: Madam President, would Commissioner Bacani accept an amendment by putting an apostrophe (') after the word "citizens"?

BISHOP BACANI: Yes.

MR. MAAMBONG: Thank you.

THE PRESIDENT: Is the amendment acceptable to the Committee?

MR. FOZ: Yes, Madam President.

BISHOP BACANI: May I ask whether the Committee accepts the amendment? The amendment is to delete the words "religious sect, or."

MR. FOZ: I understand that the Committee would rather that this issue be decided by the body.

MR. MONSOD: Madam President, may we ask that the body vote on this proposal of Commissioner Bacani?

MR. DE LOS REYES: Madam President, may I be allowed to speak against the amendment?

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: I have nothing against any religious group or sect, but I believe that we should not allow any religious group or sect to be registered as a political party. Just imagine if we register the Iglesia ni Kristo as a political party or the Catholic Church as a political party or the Philippine Independent Church as a political party.

I think there is the traditional separation of church and state so that there will be no state religion; so that there will be no instance where the dominance of a particular religious group will control the government and impose its religion. We will go back to those days when there is no separation of church and state. That is against what I have learned that we should give unto Caesar what belongs to Caesar and to God what belongs to God.

I, therefore, respectfully object to the proposed amendment.

BISHOP BACANI: Madam President, may I reply to the objection?

THE PRESIDENT: Yes, the Gentleman may proceed.

BISHOP BACANI: First of all, historically, never has it happened that the union of church and state has been effected through political parties.

Second, any people's organization which has an ideology can present itself as a political party. For all practical

purposes, a people's organization with an ideology is equivalent to a religious group which has its religious dogma, from the political point of view. Hence, while we allow an ideologically oriented political people's organization, for example, to establish itself and be accredited as a political party, no religious sect which is a people's organization sociologically is allowed that. There seems to be a discrimination.

MR. DE LOS REYES: May I reply to that statement, Madam President.

THE PRESIDENT: The Gentleman will please proceed.

MR. DE LOS REYES: Yes, Madam President. On the other hand, if we allow, for example, a majority religious group and it gains control of the government, what happens to the minority religious group? That is all, Madam President.

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment of Commissioner Bacani to delete on line 24 the words "religious sects, or, please raise their hand. (Few Members raised their hand.)

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

The results show 4 votes in favor and 22 against; the amendment is lost.

BISHOP BACANI: Madam President, may I propose another amendment by substitution?

THE PRESIDENT: The Gentleman will please proceed.

BISHOP BACANI: Instead of "religious sects, or" the amendment by substitution would say: CHURCHES, RELIGIOUS DENOMINATIONS, SECTS AND THEIR EQUIVALENT AS WELL AS ATHEISTIC OR AGNOSTIC GROUPS OR GROUPS DEDICATED TO THE ABOLITION OF RELIGION. Thus, the provision would read: "CHURCHES, RELIGIOUS DENOMINATIONS, SECTS AND THEIR EQUIVALENTS AS WELL AS ATHEISTIC OR AGNOSTIC GROUPS OR GROUPS DEDICATED TO THE ABOLITION OF RELIGION, those which seek to achieve their goals through violence OR refuse to uphold this Constitution, shall not be registered."

The reason I proposed this amendment is that otherwise, the last mentioned groups would have more rights under our Constitution than religious sects. For example, atheistic or agnostic groups or groups dedicated to the abolition of religion would, if they could be accredited as political parties, have more of the law in their favor than religious sects.

THE PRESIDENT: That will be between lines 24 and 25?

BISHOP BACANI: Yes, Madam President. Instead of "religious sects, or" it will be "CHURCHES, RELIGIOUS DENOMINATIONS, SECTS AND THEIR EQUIVALENT AS WELL AS ATHEISTIC OR AGNOSTIC GROUPS OR GROUPS DEDICATED TO THE ABOLITION OF RELIGION."

MR. BROCKA: Madam President.

THE PRESIDENT: What is the pleasure of Commissioner Brocka?

MR. BROCKA: Madam President, may I ask a question of Bishop Bacani?

THE PRESIDENT: The Gentleman will please proceed.

MR. BROCKA: I think it is carrying it a little too far. I just want to be clarified on atheistic and agnostic groups.

As far as I know, these are not organized groups. So, may I ask Bishop Bacani for an example of an organized atheistic or agnostic groups?

BISHOP BACANI: Yes. First, the strictly communist group would be atheistic. A real communist group that adheres to the teachings of Marx and Lenin in their strictness would be an atheistic group.

MR. BROCKA: What about an agnostic group? I do not know of an organized agnostic group.

BISHOP BACANI: Right now we may not have it here in the Philippines. But in Europe, for example, there have been associations, apart from the communist party of atheists, and it is not unforeseeable that there will be an association of agnostic groups. At any rate, if the Gentleman does not want the word AGNOSTIC, "ATHEISTIC AND THOSE WHO ARE DEDICATED TO THE ABOLITION OF RELIGION" would be enough, and they exist.

MR. BROCKA: I just feel that coming up with atheistic and agnostic groups is getting a little too far already.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, may we ask the proponent that we take the amendment by piece, rather than by a whole phrase because it seems that there are two parts to it. The first part is an amplification of a religious sect and the second part is an extension to atheistic or groups dedicated to the abolition of religion, if I understand it correctly.

BISHOP BACANI: Yes.

MR. MONSOD: Is it possible to take it in two parts, Madam President?

BISHOP BACANI: I propose an amplification of sects to churches and religious denominations because the word "sects" is actually very restrictive.

SUSPENSION OF SESSION

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

It was 7:06 p.m.

RESUMPTION OF SESSION

At 7:25 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

Commissioner Bacani is recognized.

BISHOP BACANI: Pardon me for causing this confusion.

Let me first give the fundamental reason why I was objecting to this phrase. If we put a provision saying that women are not allowed to be registered, while at the same time criminals are also not allowed to be registered, the women will certainly feel offended. So, religious denominations, sects or groups dedicated to the abolition of religion shall not be registered; those which seek to achieve their goals through violence or refuse to uphold this Constitution shall also not be registered.

MR. PADILLA: Madam President.

THE PRESIDENT: Yes, the Vice-President is recognized.

MR. PADILLA: Will the proponent accept an amendment to insert the word CHURCHES? When we mention

denominations or sects only, sometimes it gives the impression that we are against the minority religious groups. If we include the word CHURCHES, that will also include in the prohibition for registration as a political party the Catholic Church or other churches. But if we limit it to denominations or sects, I am afraid that we are directing the prohibition only against the minority churches.

MR. ABUBAKAR: Madam President.

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: Madam President, I want to clarify for the benefit of all the Commissioners the use of the term "churches" or "religious denomination." You have your Filipino brothers in the South which constitute almost five million. They occupy a huge territory in Mindanao up to Sulu, an island close to Borneo. To them, especially among the less sophisticated and enlightened, a church represents Christianity. And these five million Muslims would feel that the constitutional provision may encroach on their religious beliefs and rights. So, instead of using the word "church" which to them is the Catholic Church, why do we not use a phraseology acceptable to all sects in the Philippines, whether they are Catholic, atheist, Muslims, Hindus. There is another term which means orthodox? Why do we not generalize it? Let us use "religious denominations" that would apply to the Christians, to Muslims, to the medium Muslims, and to the fanatical Muslims.

BISHOP BACANI: That was the original wording.

MR. PADILLA: There it says "DENOMINATIONS, SECTS."

MR. ABUBAKAR: Yes, but the Gentleman preceded it with the word "CHURCHES."

MR. PADILLA: That is only an enumeration.

MR. ABUBAKAR: Mr. Vice-President, both of us are educated and enlightened. To me, the phraseology does not matter. But we are concerned with the conservative group who will use the word "CHURCHES" immediately with Christianity. Therefore, let us not confuse them. If we want the whole Mindanao or at least the southern part of the Philippines, let us not use the word "CHURCHES"; otherwise, I would propose an amendment to use the word "mosque."

THE PRESIDENT: Let us listen to the Committee first. What is the position of the Committee on this matter?

MR. MONSOD: The Committee accepts the original amendment of Commissioner Bacani.

THE PRESIDENT: How is it worded?

MR. MONSOD: I was going to suggest that the provision read this way; "Register, after sufficient publication, political parties, organizations or coalitions and accredit citizens' arms of the Commission, RELIGIOUS DENOMINATIONS AND SECTS SHALL NOT BE REGISTERED. Those which seek to achieve their goals through violence OR refuse to uphold this Constitution shall LIKEWISE not be registered."

THE PRESIDENT: Is that acceptable, Commissioner Bacani?

BISHOP BACANI: Yes, that is acceptable.

THE PRESIDENT: Is that acceptable to the Vice- President?

MR. PADILLA: I have to yield to the proponent, Madam President, although I am not convinced. Commissioner Ople suggested to me to use the word "faith" or "creeds." But precisely, I want this prohibition to be general, comprehensive. If we limit it only to denominations or sects, it can be criticized as particular to the minority religious groups.

THE PRESIDENT: In other words, the point of Commissioner Padilla is that if we do not use the words "religious church," it might exclude even the Catholic church.

MR. PADILLA: Yes, precisely, Madam President. When we say "religious churches, denominations, sects," that means the Catholic church cannot be accredited as a political party.

THE PRESIDENT: That is right.

MR. PADILLA: That is the meaning.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: May I just assure Commissioner Padilla that religious denominations, both from my point of view — and I am a Catholic — and from Commissioner Rigos' point of view — and he belongs to the minority — include the churches.

THE PRESIDENT: All right.

MR. ABUBAKAR: If we use the term "religious denominations," that would also be acceptable to the Muslim group in the Philippines, especially in Mindanao.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, I would like to introduce an amendment. Before "denominations," insert the word ORGANIZATIONS and a comma (,) so that the phrase will read: NO RELIGIOUS ORGANIZATIONS, DENOMINATIONS OR SECTS."

THE PRESIDENT: Is that acceptable?

BISHOP BACANI: It is not acceptable because it will ban even lay religious organizations from participating although it does not fully represent the church.

MR. DAVIDE: The intention of the proposal is to prevent the undue influence of any religion. So there may be an organization which is not really a sect but it is based on religion.

BISHOP BACANI: Yes, Madam President. But that would be carrying the matter a little too far. For example, even within the Catholic Church, there may be religious organizations which are not agreed on many points; nevertheless, they are Catholics. They may continue to act together as a group, without representing the Catholic Church.

MR. DAVIDE: Then, I will withdraw with that explanation.

THE PRESIDENT: Thank you.

MR. REGALADO: Madam President, may we ask how the first sentence now reads.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: After "Commission" on line 24, put a period (.) and the phrase RELIGIOUS DENOMINATIONS AND SECTS SHALL NOT BE REGISTERED. That is acceptable to the Committee, Madam President. With respect to the second sentence, I believe Commissioner Regalado has some additions that he would like to put in before we accept.

MR. REGALADO: Yes. The second sentence will read: "those which seek to achieve their goals through

violence, UNLAWFUL MEANS or refuse to uphold this Constitution, shall LIKEWISE not be registered." In other words, we just insert "UNLAWFUL MEANS" because there are many unlawful means that do not usually involve violence, like fraud or deceit.

THE PRESIDENT: We shall vote then on this amendment.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Could Commissioner Regalado accept a suggestion? Instead of saying "not be registered," we use the term "BE REFUSED REGISTRATION" because the Gentleman used the word "LIKEWISE."

THE PRESIDENT: Is that acceptable to the Committee?

MR. REGALADO: We will leave it to the Style Committee.

MR. MONSOD: Yes, Madam President.

MR. DE CASTRO: Madam President, please.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: On the same line as corrected by Commissioner Regalado, I will include the words "OR SUBVERSION" because violence and unlawful means are different from subversion. A group using violence may have a smaller group subverting the government. The word "subversion" was also included in Section 8 of the 1973 Constitution: "through violence, SUBVERSION or unlawful means . . ."

MR. REGALADO: Commissioner de Castro, subversion is itself a crime; it is already included under unlawful means.

MR. DE CASTRO: But it is very, very difficult to prove subversion as a crime and subversion as we know it. Unlawful means could easily be proven as unlawful means, but not in the case of subversion. One group may use violence and another group may use subversion although these two groups have the same aim.

So, I propose to insert the word SUBVERSION after the word "violence" on line 25.

THE PRESIDENT: Does the Committee accept this addition of the word "SUBVERSION"?

MR. REGALADO: Madam President, although I believe that subversion is already included for specificity as desired by Commissioner de Castro, I will accept the insertion of the word.

MR. DE CASTRO: Thank you.

MR. GASCON: May I ask the Committee to reconsider the acceptance of the word "SUBVERSION" and instead retain unlawful because the term as posed by history during the Marcos regime was a very subjective term. I was considered a subversive during the Marcos regime but I did not consider myself being a subversive because I was fighting for truth, freedom and justice. So, could we please reconsider and just use the word "unlawful" instead?

MR. REGALADO: "Unlawful means" as understood under the law, as I said, would already include it. So, the concept of subversion is spelled out in the law.

MR. DE CASTRO: Subversion has its own definition. In fact, it has its own legal definition and used, in fact, in the 1973 Constitution. When we talk of subversion under the Marcos regime, the moment one is against Marcos, he is subversive. But subversion as defined in our existing laws and in jurisprudence is different from that

interpretation.

THE PRESIDENT: Is the amendment accepted?

MR. GASCON: Madam President, may the Committee request that we take a vote because there is an objection.

THE PRESIDENT: The Chair would like to be clarified first. Is the word "SUBVERSION" accepted by the Committee or not?

MR. FOZ: Madam President, because of the objection, we are reconsidering and we are putting the issue of whether "SUBVERSION" should be included in the enumeration.

MR. GASCON: May I suggest that we first vote on Commissioner Bacani's proposal, as amended, and then go to Commissioner de Castro's proposal.

THE PRESIDENT: That is precisely the ruling of the Chair.

The body will first vote on the amendment of Commissioner Bacani, as modified by the Committee. I think the two sentences are clear. Do we have to repeat them?

MR. FOZ: It will read this way: "RELIGIOUS DENOMINATIONS AND SECTS shall not be registered."

MR. REGALADO: We will first put that to a vote.

MR. FOZ: Does the Chair want us to vote on that, first?

VOTING

THE PRESIDENT: We will put this to a vote.

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

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

The results show 26 votes in favor and none against; the amendment is approved.

MR. REGALADO: What we accepted here in the second sentence is: "those which seek to achieve their goals through violence, UNLAWFUL MEANS OR refuse to uphold this Constitution shall LIKEWISE BE REFUSED REGISTRATION."

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, before we vote on it, may I just ask a question about that proposal?

Would the term "unlawful means" include those groups that espouse statehood and double allegiance?

MR. REGALADO: There is no law that considers that as a crime.

MR. VILLACORTA: No, because we have approved the proposal of Commissioner Ople that makes double allegiance unlawful. Am I right?

MR. REGALADO: What we approved was a constitutional guideline; Congress will still have to provide for that.

MR. VILLACORTA: So, it is not assumed that espousing statehood is unlawful.

MR. REGALADO: When you speak of unlawful means, we presuppose a law and a violation of that law. The double allegiance spoken of by Commissioner Ople was a declaration of policy which, if I recall, is subject to legislation.

MR. VILLACORTA: In other words, political groups or parties that espouse statehood may be registered and are not inhibited under this proposal. Am I right?

MR. REGALADO: Insofar as those who espouse it are concerned, that is an aspiration on their part.

MR. VILLACORTA: So if they will not be disallowed, would they be allowed to register?

MR. REGALADO: I do not see really how it will come under unlawful means.

MR. VILLACORTA: I see.

Thank you for the clarification

THE PRESIDENT: Is Commissioner Villacorta satisfied?

MR. DE CASTRO: Madam President, may I introduce an amendment to the amendment made by Commissioner Regalado when he said on line 25: ". . . those which seek to achieve their goals through violence and refuse to . . ."

MR. REGALADO: ". . . to uphold this Constitution . . ."

MR. DE CASTRO: May I put an amendment to the amendment by stating ". . . those which seek to achieve their goals through violence, SUBVERSION, AND OTHER UNLAWFUL MEANS, AND THOSE WHO refuse to uphold this Constitution, shall not be registered."

So the amendment now to the amendment is the insertion of the words "SUBVERSION, AND OTHER UNLAWFUL MEANS; AND THOSE WHO" between the words "violence" and "refuse."

MR. REGALADO: In other words, the amendment to the amendment is to insert specifically the word "SUBVERSION."

MR. DE CASTRO: Yes, Madam President.

MR. REGALADO: We move that it be submitted to a vote.

VOTING

THE PRESIDENT: The Chair has already ruled that we will vote on the second sentence without the word "SUBVERSION." Afterwards, we will vote again if we would include the word "SUBVERSION."

As many as are in favor of the second sentence read by Commissioner Monsod without the word "SUBVERSION," please raise their hand. (Several Members raised their hand.)

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

The results show 23 votes in favor and no one against; the proposed amendment is approved.

We shall now vote on the amendment of Commissioner de Castro to insert the words "SUBVERSION, AND OTHER UNLAWFUL MEANS AND THOSE WHO."

MR. PADILLA: Madam President, may I say that the 1973 Constitution mentions "to achieve its goals through violence or subversion." And the amendment is to insert "subversion and other unlawful means" which I think is already accepted.

THE PRESIDENT: As many as are in favor of the amendment to insert the word "SUBVERSION," please raise their hand. (Two Members raised their hand.)

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

The results show 2 votes in favor and 24 against; the proposed amendment is lost.

Commissioner Suarez is recognized.

MR. SUAREZ: Madam President, as the Acting Floor Leader, may I respectfully call on Commissioner Ople for his proposed amendment to Section 2 (4).

THE PRESIDENT: Commissioner Ople is recognized.

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

This is actually an anterior amendment which had to give way to Commissioner Bacani because of his urgent engagement. I speak for Commissioners Rodrigo and Jamir in proposing an amendment to Section 2 (2), on page 2 which was previously discussed during the period of interpellations. Madam President, the amendment merely consists of saying: "Deputize, with THE CONCURRENCE OF the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest and peaceful elections." The original provision of the 1973 Constitution called for deputation at the instance or with the consent of the President, presumably as Commander-in-Chief of the Armed Forces. Now, the provision reads: "Deputize, with notice to the President."

This, in our opinion, must be seen in its close relationship with Section 2 (8) on page 3, line 5. According to this, the Commission on Elections shall recommend to the President the removal of, or any other disciplinary action against, any officer or employee it has deputized, for violation or disregard of or disobedience to its directive, order or decision.

So, in one part we are denying the President of the Philippines even a semblance of participation in the deputation. In another part, we are calling on him, that is to say, the COMELEC is calling on him to remove or to discipline any officer or employee it has deputized for violating the directives or orders of the Commission on Elections. That certainly lacks symmetry, not to mention the minimum courtesy owed to the Office of the President which has the jurisdiction over these agencies that are to be deputized. To accommodate some of the scruples of our colleagues about giving the President a superior role to the COMELEC with respect to deputation, we have informed the Committee, chaired by Commissioner Foz, that concurrence can be the compromise language here. You do not create potential conflicts between the President and the Commission on Elections. You eliminate it right here simply by providing for concurrence of the President, not at the instance of or consent of the President, in which case, the COMELEC still has the primary initiating role.

So, that is our proposed amendment, Madam President. Again, I associate myself with Commissioners Rodrigo and Jamir in proposing this amendment.

THE PRESIDENT: What is the position of the Committee?

MR. MONSOD: Madam President, this was a decision of the Committee and not all of them are here. We would like to throw this to the body for decision.

MR. DE CASTRO: May I ask one question of the proponent, please?

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: What if the President is the candidate?

MR. OPLE: Even if the President is the candidate, his concurrence will be necessary. I do not recall any instance

in the history of Philippine elections when the President of the Philippines did not give his consent to this deputation.

MR. DE CASTRO: There can always be a precedence because if the President who is running for reelection feels that he can better use the armed forces, if they will not be deputized, then his consent will not be . . .

MR. OPLE: If the President denies his concurrences he will guarantee his defeat in that election. There are checks and balances involved here.

MR. REGALADO: Madam President, Section 2 (4), line 17 would, therefore, read: "Deputize, with THE CONCURRENCE OF the President, law enforcement agencies and . . ."

MR. FOZ: Madam President, I move that we take a vote on the matter.

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

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment on line 17 of page 2, please raise their hand. (Several Members raised their hand.)

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

The results show 17 votes in favor and 7 against; the amendment is approved.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: May we request that the Honorable Rosario Braid be recognized for an amendment to Section 2, paragraph 9.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, may I amend by addition of a phrase on page 2, Section 2 (5), lines 22 and 23, which would read as follows: "Register, after sufficient publication, political parties, organizations or coalitions WHICH IN ADDITION TO OTHER REQUIREMENTS MUST PRESENT THEIR PLATFORM OR PROGRAM OF GOVERNMENT. . ." The reason for this, as I explained earlier, is to insure that we make it mandatory for all parties and citizens' groups to define and present a program of government before they are officially registered. I know this is included in the Omnibus Election Code, but, nonetheless, we would like to see it in the fundamental law.

Thank you.

MR. MONSOD: Madam President, the Committee feels that all the conditions for registration are really subject to legislation, but we suggest that it be thrown to the body for a vote.

THE PRESIDENT: Will the Commissioner please read the amendment again.

MS. ROSARIO BRAID: The amendment reads: "Register after sufficient publication, political parties, organizations or coalitions WHICH IN ADDITION TO OTHER REQUIREMENTS MUST PRESENT THEIR PLATFORM OR PROGRAM OF GOVERNMENT . . ."

VOTING

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

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

The results show 20 votes in favor and 3 against; the amendment is approved.

MR. SUAREZ: Madam President, may we request that the Vice-President be recognized for an anterior amendment under Section 2 (4).

THE PRESIDENT: The Vice-President is recognized.

MR. PADILLA: I propose a very simple amendment on line 21 — change the word "peaceful" to CREDIBLE. The reason is that if the elections are free and orderly, they are peaceful. The word CREDIBLE was inserted by the Batasang Pambansa in the last Omnibus Election Code, and to me it was a good insertion. The words "free, orderly, honest" are the three adjectives used in the 1935 and 1973 Constitutions. Instead of the word "peaceful," which is included in the phrase "free, orderly, honest," I propose to insert the word CREDIBLE.

MR. GASCON: Madam President, may I make an amendment to the amendment? Would it be possible that instead of deleting the word "peaceful," we simply add the word "CREDIBLE," because I think the armed forces' main task, aside from assuring that things are free, the people are free to do their voting and the election is orderly and honest, is to assure that there is peace. I think it is a very important term, so I have no objection to the word "CREDIBLE" so long as we do not delete the word "peaceful."

MR. PADILLA: I have no real objection to the word "peaceful." I like elections to be peaceful but I will yield and accept the amendment.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: We accept the amendment, Madam President, and we also like to refer it to the Style Committee to align these enumerations wherever they appear in this Article.

THE PRESIDENT: So, how will the sentence now read?

MR. MONSOD: Section 2 (4), lines 20 and 21, would now read; ". . . ensuring free, orderly, honest, peaceful and CREDIBLE elections."

VOTING

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

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

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

Commissioner Suarez is recognized.

MR. SUAREZ: Madam President, may we request that Commissioner Davide be recognized for an amendment to Section 2 (5)?

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The amendment would be within the amendment of Commissioner Bacani: On line 26, after "Constitution" but before the words "SHALL LIKEWISE BE REFUSED REGISTRATION," insert the following: OR WHOSE INTERNATIONAL ORGANIZATIONS DO NOT CONFORM TO DEMOCRATIC PRINCIPLES OR WHICH

ARE SUPPORTED BY ANY FOREIGN GOVERNMENT, INSTITUTION OR ORGANIZATION, and place a comma (,).

THE PRESIDENT: That would be on line 26?

MR. GASCON: May I ask a question, Madam President.

THE PRESIDENT: The Commissioner may proceed.

MR. GASCON: What does the Commissioner mean by "DEMOCRATIC PRINCIPLES"?

MR. DAVIDE: This is just to be in line with the approved Preamble.

MR. GASCON: I was thinking, if they will be accredited on the basis of their adherence to the Constitution, will that not be a sufficient ground for maintaining that they have democratic principles? My problem is the definition of "democratic principles." Let us say, a right-to-center or fascist party would define "democracy" in one way or another; the communist party would define "democracy" in another way and yet maintain that they uphold democratic principles. This is very vague. If we just maintain that they adhere to the Constitution, would that not be sufficient?

MR. DAVIDE: If that is the proposal, I am agreeable to it, provided that after the word "uphold" we insert the phrase AND ADHERE TO. The amended portion would read: ". . . refuse to uphold AND ADHERE TO this Constitution. . ."

THE PRESIDENT: The Gentleman's amendment would simply insert the words "AND ADHERE TO."

MR. DAVIDE: Yes, Madam President.

THE PRESIDENT: Is that acceptable to the Committee?

MR. MONSOD: Madam President, we want to know whether or not there is a difference. Is it necessary to add more words? Does it add to the meaning?

MR. DAVIDE: Certainly, Madam President, because "upholding" may only be the state of the mind, but "adherence" would demand actual adherence to the Constitution.

MR. FOZ: We accept, Madam President.

THE PRESIDENT: The Committee has accepted the proposed amendment.

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

MR. DAVIDE: The last portion of the amendment would read: OR WHICH ARE SUPPORTED BY ANY FOREIGN GOVERNMENT, INSTITUTION OR ORGANIZATION.

THE PRESIDENT: Where will that amendment come in?

MR. DAVIDE: The phrase in Section 2 (5) will now read: "to uphold AND ADHERE TO this Constitution, OR WHICH ARE SUPPORTED BY ANY FOREIGN GOVERNMENT, INSTITUTION OR ORGANIZATION, . . ."

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: May I ask a question of Commissioner Davide?

MR. DAVIDE: Gladly, Madam President.

THE PRESIDENT: The Gentleman will please proceed.

MR. OPLE: I wanted to call Commissioner Davide's attention and that of the Commission to a forthcoming proposed amendment already cleared with the Committee which may rather be analogous to the last portion of his amendment. This deals with financial contributions to political parties and organization of candidates from foreign governments and institutions related to elections. constituting an act of interfering in national affairs, and maybe an additional ground for the deregistration of a political party in addition to other penalties that maybe prescribed by law. This is, of course, an amendment proposed by Commissioners Garcia, Rosario Braid, Natividad, de los Reyes, Jr., Regalado and Maambong. Can we ask that Commissioner Davide allow himself to be coopted as another coauthor of this proposed amendment?

MR. DAVIDE: I would be very willing to be a coauthor of that, but that particular amendment would refer to deregistration. In my proposal, it is the registration itself and that proposed amendment has relevance to contributions for election purposes. Here, it is support and aid, not only for election purposes probably but even in the initiation, organization and the establishment of the party itself. So, both can be considered independently

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

MR. DAVIDE: I will support that proposal at the proper time.

MR. OPLE: Yes. Thank you very much.

MR. GASCON: May I ask a question.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Assuming that the Gentleman's second proposal is approved, would it still be necessary to consider that amendment as . . .

MR. DAVIDE: Yes. As I explained, Madam President, that amendment would refer to the act of deregistering or revoking a registration and only for acceptance of contributions for election purposes.

MR. GASCON: Assuming it is approved, would the Gentleman's amendment not already preclude that they would not be registered, in the first place, if they had accepted any form of contributions?

MR. DAVIDE: Yes. So, this is the first stage.

MR. GASCON: Therefore, that instance may no longer happen since we have the first . . .

MR. DAVIDE: No, because a political party which had been registered may accept contributions and, therefore, that could be a ground for the cancellation of the registration.

MR. GASCON: Thank you.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May I ask the proponent if the phrase "for election or other purposes" was inserted in his amendment? Would it not make irrelevant the amendment of Commissioner Ople because in earlier interpolations we said that the act or the power to register includes the power to deregister?

MR. DAVIDE: That can be accommodated in the proposal.

MS. ROSARIO BRAID: Madam President, may I ask a clarificatory question of Commissioner Davide.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MR. DAVIDE: I would be willing to yield, Madam President.

MS. ROSARIO BRAID: Would the Gentleman include also training and orientation programs for political parties in his category of assistance from foreign governments?

MR. DAVIDE: If it is just preliminary to the registration, it can be done, but that particular party which has undergone some training program, if supported by that particular group, may not be accepted for registration.

MS. ROSARIO BRAID: Would the Gentleman exempt from this category international organizations like the UN, UNESCO, UNIDO, and other international organizations?

MR. DAVIDE.: It depends on the kind of training. If the training is really to influence that political party and for that trainor to interfere in the political affairs of the Philippines, that should really be banned.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Will the proponent kindly read the proposed amendment again.

MR. DAVIDE: The proposed amendment would read as follows, and this is after "Constitution" under the Bacani amendment: OR WHICH ARE SUPPORTED BY ANY FOREIGN GOVERNMENT, INSTITUTION OR ORGANIZATION.

MR. RODRIGO: This question refers to the word "organization" — let us say, the Movement For Free Philippines in the United States whose members are mostly Filipinos (but I know that it has American members) and the NAM or the Ninoy Aquino Movement, composed of Filipinos, most of whom are American citizens but whose hearts still beat for our country. Suppose a political party here is supported by the NAM or the Movement for Free Philippines, would that come under that prohibition?

MR. DAVIDE: I would not consider it to be within the prohibition because, if it is really for the Filipinos and this is an organization of Filipinos . . .

MR. RODRIGO: Not exclusively Filipinos.

MR. DAVIDE: The idea is, it is a foreign government, institution or organization, but that institution or organization is basically Filipino.

MR. RODRIGO: So that would not come under.

MR. DAVIDE: It will not be within the prohibition.

MR. RODRIGO: Thank you.

MR. GASCON: I would like to ask a question in the same regard. Would local political parties, say, a political party, a socialist party or social democratic party affiliated with international organizations such as the Socialist Internationale or the Christian Democratic Internationale and, for that matter, receiving moral support, fellowships, etc., be disqualified? Or for that matter, may I add a political party which is initiating a cooperative movement and has sought foreign assistance through foundations outside, like the Konrat Adenauer Foundation in

Germany, would that preclude disqualification?

MR. DAVIDE: It all depends on how this aid was used. For instance, if it is for the cooperative movement, it is not really for a political purpose.

MR. GASCON: What if it was for, let us say, training modules, etc., but the modules themselves — the training itself — were done by Filipinos, implemented by Filipinos, but there was a grant, let us say, to continue education like seminars, etc?

MR. DAVIDE: If the purpose of the module or the training is not to influence politics, that can be an exception. So, it all depends now on the perception of the COMELEC. How was this aid received? Was it for political purposes?

MR. GASCON: Let us say it is for political purposes in the sense that it is for recruitment, for training of new party members.

MR. DAVIDE: That would be political already. It is not for social or civic function.

MR. GASCON: But the implementation of the program was done by Filipinos although the funding came from a foreign source, like comrades in a larger international organization.

MR. DAVIDE: If it is related to the organization of that party as a political party and it is receiving aid from a foreign government or institution or organization in order to strengthen that political party, then that would be within the prohibition.

MR. OPLE: Madam President, may I be recognized for just a question or a manifestation.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Before the Committee acts on the proposed amendment, may I have a final check with Commissioner Davide on the point he earlier made that there would be no incompatibility and no mutual exclusivity between this amendment and the collectively presented amendment that I had announced.

MR. DAVIDE: That is correct, Madam President.

MR. OPLE: Subject, perhaps, to the action of the Committee on Style at a larger stage on how any kind of redundancy can be eliminated.

MR. DAVIDE: Yes, Madam President.

MR. OPLE: Thank you.

MR. GASCON: May I ask one final point. In the proposal, it would not only allow political parties per se, but even organizations, to register in a partyless system. What of, let us say, the various labor organizations at present which may wish to be registered and to compete in electoral process and, I think, it is of common knowledge that they receive some form of foreign support from the various international labor federations? Would that, therefore, disqualify them as organizations which wish to participate? Perhaps Commissioner Lerum could also give us some verification whether it is true that some federations did not have direct support from outside.

MR. DAVIDE: I do not have personal knowledge about labor organizations receiving support from the outside. But if these labor organizations receive support for labor purposes or for upgrading the organization itself, for the benefit and advantage of its members, then I think it would not be covered by my proposal.

MR. GASCON: But when they register as an organization, can they qualify for positions in the legislature, which

is considered political but, technically, they are not a political party? But the provisions would allow for organizations to register as organizations.

MR. DAVIDE: Madam President, let us specifically examine and study the platforms of that political party, the programs of government, and relate them to the contributions given by a foreign government, a foreign organization or a foreign institution. If it could be perceived from an analysis of these facts that it is the intention of the foreign government or the institution or organization to promote the political aspirations of that party to be considered in the political field, then it is obvious that the contribution was not really to help it as a labor organization but as a political party.

THE PRESIDENT: The Chair believes that is sufficient.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Will the distinguished sponsor consider the elimination of the words "INSTITUTION OR ORGANIZATION" and just limit it to "SUPPORTED BY ANY FOREIGN GOVERNMENT"?

May I explain briefly, Madam President. When Congress passed Republic Act No. 1700 on antismuggling, it mentioned the support of an alien power. When Mr. Marcos issued his Presidential Decree No. 885 or the Revised Subversion Act, it was also limited to assistance, open or covert, and support of a foreign power. Thereafter, Mr. Marcos issued his Presidential Decree No. 1736 which included the open or covert support from a foreign source. I had occasion to criticize this decree because it would widen the grounds for subversion if there were some support from a foreign source, meaning, any institution or organization, some of which were mentioned by Commissioner Rodrigo, like the Ninoy Aquino Movement, the Movement for Free Philippines or any other private institution or organization.

I think what we should be careful about is that no political party will be supported or will look for support from a foreign government.

MR. DAVIDE: Madam President, I see the point.

THE PRESIDENT: Does Commissioner Davide accept the proposal of Commissioner Padilla?

MR. DAVIDE: I will accept the amendment of Commissioner Padilla with the expectation that the Ople et al amendment alluded to earlier by Commissioner Ople regarding the grounds for their registration of political parties will be limited to a foreign government.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: Madam President, we would like the body to vote on the proposed amendment.

THE PRESIDENT. Is there any objection to the proposed amendment of Commissioner Davide, as modified by Commissioner Padilla? (Silence) The Chair hears none; the amendment, as amended, is approved.

MR. ROMULO: Madam President, may we request that Commissioner Ople be recognized for an amendment to Section 2 (5).

THE PRESIDENT: Commissioner Ople is recognized.

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

I speak for the other proponents — Commissioners Garcia, Rosario Braid, Natividad, de los Reyes, Jr., and

Maambong. The amendment consists of adding a new paragraph and inserting this immediately after paragraph 5 of Section 2, page 2, and shall read as follows: THE COMMISSION MAY DEREGISTER ANY POLITICAL PARTY DETERMINED TO HAVE COMMITTED THE ACTS PROHIBITED IN THE IMMEDIATELY PRECEDING SECTION. If the Committee chooses merely to add this to the existing Section 2 (5) instead of creating a new section for economy of space, I think the proponents will not mind.

MR. REGALADO: How would that go again, Commissioner Ople?

MR. OPLE: The additional paragraph shall read: THE COMMISSION MAY DEREGISTER ANY POLITICAL PARTY DETERMINED TO HAVE COMMITTED THE ACTS PROHIBITED IN THE IMMEDIATELY PRECEDING SECTION. If it is not the immediately preceding section, then it should be the acts prohibited in this section.

MR. REGALADO: May we seek a clarification from Commissioner Ople? In the proposed amendment of Commissioner Davide, it was limited to support by any foreign government. In the proposed amendment which the Commissioner intended to be inserted as paragraphs 6 and 7, he also mentioned financial support from foreign governments and institutions.

MR. OPLE: May I read the whole section for greater clarity, Madam President.

There is a slightly amended version. So, may I read it, with the leave of the Chair. The proposed Section 7 is: FINANCIAL CONTRIBUTIONS TO POLITICAL PARTIES AND ORGANIZATIONS OR CANDIDATES FROM FOREIGN GOVERNMENTS AND INSTITUTIONS RELATED TO ELECTIONS CONSTITUTE AN ACT OF INTERFERENCE IN NATIONAL AFFAIRS AND MAY BE AN ADDITIONAL GROUND FOR THE DEREGISTRATION OF A POLITICAL PARTY IN ADDITION TO OTHER PENALTIES THAT MAY BE PRESCRIBED BY LAW.

MR. REGALADO: That is right. But the amendment Commissioner Davide only speaks of political parties which are supported by any foreign government. The words "institutions or organizations" were deleted.

MR. OPLE: Yes, may I clarify that the institutions here should be read in the context of foreign governments. But I think the commission should be informed that foreign governments in many situations, especially where malice is intended, do not contribute as such to political parties and candidates. That is what the journalists call a "laundering process." After developing a country recipient of such contributions, the contributions may not actually bear the stamp of the foreign government; there is an attempt to conceal it and to put it under the logos of institutions or organizations funded by these governments in sometimes open and at other times clandestine way. And so, just for purposes of determining the intent behind this new paragraph, the institutions should be seen in the context of foreign governments, as well.

MR. REGALADO: That is right.

MR. OPLE: Except that various disguises are sometimes attempted precisely to conceal the governmental source of such contributions.

MR. REGALADO: In regard to the Commissioner's position on "INSTITUTIONS AND ORGANIZATIONS" in connection with foreign governments, and Commissioner Davide's limiting it only to foreign governments, could he reconcile his position with Commissioner Davide's with respect to the phraseology?

MR. OPLE: Yes, this is a more explicit principle, Madam President. It is being stated as an important principle of national sovereignty and is incidentally, being linked to the registration process.

MR. REGALADO: Before the Committee answers, may we ask Commissioner Davide whether he would want

the reinstatement of the words "INSTITUTIONS AND ORGANIZATIONS" after "FOREIGN GOVERNMENTS" since the proposed amendment of Commissioner Ople would like to refer to those acts.

MR. OPLE: Madam President. I think we are in a position now to effect some reconciliation. I would like to tell the Committee that instead of the words "FOREIGN GOVERNMENTS AND INSTITUTIONS" we will say FOREIGN GOVERNMENTS AND THEIR AGENCIES.

MR. DAVIDE: Madam President.

THE PRESIDENT: Yes. Commissioner Davide is recognized.

MR. DAVIDE: I agree to that, and there is really no inconsistency even if we retain the word "INSTITUTIONS" because this is in reference to the "deregistration" not the "act of registration."

THE PRESIDENT: Yes.

MR. OPLE: Yes.

THE PRESIDENT: Actually, the Chair does not see any inconsistency between the two amendments.

MR. REGALADO: That is right.

THE PRESIDENT: The amendment of Commissioner Davide prohibits the registration of such an organization, while that of Commissioner Ople refers to one that has already been registered but that now will be "deregistered" of these particular acts mentioned. Am I correct?

MR. OPLE: Madam President, there are now two proposed amendments. Can they be treated as a single amendment for purposes of the Committee's action?

MR. REGALADO: How will Commissioner Davide's amendment now read?

MR. DAVIDE: The same as approved.

THE PRESIDENT: We have approved that, have we not?

MR. MONSOD: Madam President, we are prepared to accept the amendment but can we take it one by one? May we suggest CANCEL REGISTRATION?

MR. OPLE: Yes, this is very British. We "cancel registration," that is the American-Filipino way, I think.

MR. MONSOD: We "cancel registration" of any political party determined to have committed the acts prohibited in this paragraph, because what we suggest is that we just add this to the sentence in Section 2 (5).

MR. OPLE: Madam President, we agree to the Committee's formulation of the amendment.

MR. DAVIDE: With respect to the second one Madam President, may I be recognized?

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would propose an amendment to the proposal by rewriting the original amendment. It will now read as follows: ACCEPTANCE OF FINANCIAL CONTRIBUTIONS FOR ELECTION PURPOSES FROM FOREIGN GOVERNMENTS AND INSTITUTIONS BY POLITICAL PARTIES, ORGANIZATIONS OR CANDIDATES CONSTITUTES AN ACT OF INTERFERENCE IN NATIONAL AFFAIRS AND SHALL BE AN ADDITIONAL GROUND FOR THE CANCELLATION OF THE REGISTRATION IN ADDITION TO OTHER PENALTIES THAT MAY BE PRESCRIBED BY LAW.

MR. OPLE: We could partially agree, Madam President, except that the antecedent of the act of interference in Commissioner Davide's version would be the acceptance by the Filipino political party or organization, so there is a synthetical problem there, but with respect to his proposal to change the registration into cancellation of registration to be consistent with the previous paragraph, we support that, Madam President.

THE PRESIDENT: The Chair desires to be clarified.

Are we having just one consolidated amendment or are these two separate amendments?

MR. OPLE: Madam President, these are two separate paragraphs.

THE PRESIDENT: So then let us take up, first, the amendment of Commissioner Ople. Where will this be?

MR. OPLE: Yes. The first paragraph, Madam President, is an additional sentence to Section 2 (5).

THE PRESIDENT: Will the proponent please read it again so that we can vote on that?

MR. OPLE: It will read: THE COMMISSION MAY CANCEL THE REGISTRATION OF ANY POLITICAL PARTY DETERMINED TO HAVE COMMITTED THE ACTS PROHIBITED IN THIS PARAGRAPH.

MR. MONSOD: Madam President, may we suggest something. To be consistent with this paragraph, may we suggest that we also add POLITICAL PARTY OR ORGANIZATION.

MR. OPLE: We agree, Madam President.

THE PRESIDENT: Is there any objection to this proposed amendment of Commissioner Ople as modified by the Committee? (Silence) The Chair hears none; the amendment, as modified, is approved.

Let us now take up the amendment of Commissioner Davide.

MR. DAVIDE: Madam President, I proposed earlier to insert before the word "financial" the words ACCEPTANCE OF because this is the very act which would constitute interference. If a financial contribution is not accepted, the political party is not guilty of any offense. As a matter of fact, it is upholding the law.

MR. OPLE: Yes, as I said I have no quarrel with that. My problem is one of syntax because the financial contributions to political parties and organizations of candidates from foreign governments and institutions related to elections are what constitute an act of interference in national affairs, together with the acceptance, but it cannot be acceptance alone, because, then, who is interfering? It cannot be the acceptor.

MR. DAVIDE: Madam President, the evil is the acceptance by the local political party organization. In other words, if it is just financial contributions, the mere offer of a financial contribution will not constitute an offense. So, what will happen here? Any political organization or party may be charged by anybody that there was an offer to it of a financial contribution which is a ground for the cancellation of the registration of that political party. Hence, for the consummation of the offense, the act of acceptance must be the qualifying element.

MR. MONSOD: Madam President, may we suggest something.

THE PRESIDENT: The Gentleman will please proceed.

MR. MONSOD: We were wondering if Commissioner Ople were willing to cancel the phrase "CONSTITUTE AN ACT OF INTERFERENCE IN NATIONAL AFFAIRS AND." If we cancel that phrase, we would have no syntax problems and we will just say: ACCEPTANCE OF FINANCIAL CONTRIBUTIONS RELATED TO ELECTIONS FROM FOREIGN GOVERNMENTS AND INSTITUTIONS BY POLITICAL PARTIES, ORGANIZATIONS OR CANDIDATES SHALL BE AN ADDITIONAL GROUND FOR THE

CANCELLATION OF REGISTRATION OF A POLITICAL PARTY OR ORGANIZATION IN ADDITION TO OTHER . . .

MR. OPLE: Madam President, that will settle the problem of syntax but it will take away a very important principle embodied in this paragraph, which is that financial contributions of this nature constitute an act of interference in national affairs. I think this is a very important principle to enunciate in a Constitution, one of the strong features of which is a commitment to national sovereignty.

THE PRESIDENT: So, what would the Commissioner suggest?

MR. OPLE: I am looking for a way of absorbing the word "ACCEPTANCE" of Commissioner Davide without destroying the syntax of this paragraph. Why do we not say: FINANCIAL CONTRIBUTIONS TO POLITICAL PARTIES AND ORGANIZATIONS OF CANDIDATES FROM FOREIGN GOVERNMENTS AND INSTITUTIONS RELATED TO ELECTIONS CONSTITUTE AN ACT OF INTERFERENCE IN NATIONAL AFFAIRS AND WHEN ACCEPTED MAY BE AN ADDITIONAL GROUND FOR THE CANCELLATION OF A POLITICAL PARTY, IN ADDITION TO OTHER PENALTIES THAT MAY BE PRESCRIBED BY LAW. Will that meet the punctilious requirements of Commissioner Davide?

MR. DAVIDE: More than enough, Madam President.

THE PRESIDENT: How about the Committee?

MR. MONSOD: If we just change the word "MAY" to SHALL, then it is acceptable to us.

MR. OPLE: We accept, Madam President.

MR. MONSOD: It is acceptable to the Committee, Madam President. It would be a new section.

MR. GASCON: Madam President, may I be clarified? Is it "INSTITUTIONS" or "AGENCIES"?

MR. OPLE: Madam President, it is "AGENCIES" to read: "GOVERNMENT AND THEIR AGENCIES."

THE PRESIDENT: It is "AND THEIR AGENCIES." Is the Gentleman satisfied?

MR. MONSOD: Yes, Madam President.

THE PRESIDENT: Is there any objection to this particular amendment, as amended? (Silence) The Chair hears none; the amendment, as amended, is approved.

MR. OPLE: Finally, Madam President, with the leave of the Floor Leader, we propose a new section to be denominated as SECTION 4 on page 3, to read as follows: A FREE AND OPEN PARTY SYSTEM SHOULD BE ALLOWED TO EVOLVE ACCORDING TO THE FREE CHOICE OF THE PEOPLE, SUBJECT ONLY TO THE PROVISIONS OF THIS ARTICLE. In effect, it means a disengagement from the sterile two-party system of the past and the multiparty system will be allowed to develop. Of course, later it can evolve in the same manner that this developed in the United States. There is no mandate in the Constitution or law in the United States for a two-party system. But through the free choice of the American people over 200 years, they evolved a two-party system which is so fitted and so appropriate to their own requirements.

MS. ROSARIO BRAID: Madam President.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Will my coauthor be amenable to add the word MULTI which will make the proposal clearer? So the amendment will read: "A FREE AND OPEN MULTIPARTY SYSTEM SHOULD BE

ALLOWED TO EVOLVE."

MR. OPLE: It does not sound very appropriate at that point. A free and open party system can become a two-party system in the end through the free choice of the people. But, maybe, that reservation can be met again, with the leave of the Chair, if we say: A FREE AND OPEN PARTY SYSTEM WITHOUT RESTRICTION ON THE NUMBER OF PARTIES SHALL BE ALLOWED TO EVOLVE. Will that meet the proponent's requirement?

MS. ROSARIO BRAID: I think we would like a multiparty system but a free and open party system could be a two-party system.

MR. OPLE: We cannot presume what the people will choose in a free and open party system. They may want a two-party system later on. I think the principle of a multiparty system is very abundantly met by this definition of a free- and open-party system.

THE PRESIDENT: May we have the proposed amendment again, Commissioner Ople?

MR. OPLE: The amendment shall read: A FREE AND OPEN PARTY SYSTEM SHALL BE ALLOWED TO EVOLVE ACCORDING TO THE FREE CHOICE OF THE PEOPLE, SUBJECT ONLY TO THE PROVISIONS OF THIS ARTICLE. This is meant to precede Section 5 in the draft Article of the Committee.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: The Committee accepts that amendment, Madam President.

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

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

MR. GASCON: Madam President, I would like to propose an amendment.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: Madam President, I propose to delete from that accepted amendment the word "and" between "free" and "open," and then to insert the words AND MULTI between "open" and "party."

THE PRESIDENT: How would the proponent read it?

MR. GASCON: It shall read: "free, open AND MULTI party system." I would like that we decide on whether or not we would agree on a multiparty system. As Commissioner Ople has stated, the free- and open-party system may lead towards a two-party system. I hope we could emphasize our wish to lead towards a multiparty system which is why I would like to propose that we place the term MULTIPARTY.

THE PRESIDENT: What does the Committee say?

MR. MONSOD: The Committee regrets it cannot accept the amendment because while we are for such an opening of the society, it is also wrong for us to mandate that it must be a multiparty system. It is a free system and can evolve into a two-party system.

MR. GASCON: Madam President, I move that we vote on the proposed amendment.

VOTING

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

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

The results show 6 votes in favor and 13 votes against; the proposed amendment is lost.

MR. SUAREZ: Madam President, may we request that Commissioner Villacorta be recognized for an amendment.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, I would like to propose an amendment by addition. In Section 2 (5), besides those which were cited as grounds for disqualification for registration add: THOSE WHICH ESPOUSE ALLEGIANCE TO FOREIGN GOVERNMENTS. May I explain the proposal. There are certain political groups that may not be receiving support from foreign governments but on their own, espouse allegiance to foreign governments. We would like it to be very categorical that we shall be prohibiting these political organizations from registering.

MR. GASCON: Madam President.

THE PRESIDENT: Yes, Commissioner Gascon is recognized.

MR. GASCON: In the paragraph, there is reference to the phrase "uphold and adhere to the Constitution." If that is in the first premise, then the second point will not follow. If they adhere to the Constitution, they cannot adhere to any other country. My point is, the proposal may not be necessary since we uphold the first principle — that they should adhere and uphold the Philippine Constitution.

MR. VILLACORTA: I understand that, Madam President. But we would like to be sure because there may be several interpretations to that provision. I know what the Gentleman is referring to — that dual allegiance is inimical to national interest. But that in itself might be interpreted later on as insufficient reason for disallowing a political organization from registering. So, if we made it specific here that we are not allowing the registration of religious denominations and those that receive support from foreign governments, why should we not be equally clear in disallowing those that espouse allegiance to foreign governments?

MR. GASCON: My point is, they should first uphold and espouse and adhere to the Philippine Constitution. If they do so, they cannot espouse allegiance to any other country.

MR. VILLACORTA: But, Madam President, as I said, the stipulation about upholding and adhering is not categorical enough. Advocates of statehood, for example, can always say that consistent with the freedom of expression and freedom of belief guaranteed in the Bill of Rights, they may still espouse allegiance to foreign governments.

THE PRESIDENT: May we hear from the Committee?

MR. MONSOD: Madam President, we regret that we cannot accept the amendment but we also would like to say that our interpretation of the requirement that those who refuse to uphold or adhere are not qualified to be registered, also includes those who espouse allegiance to another country.

MR. VILLACORTA: May I just reply to that. If that is so, then we need not also mention espousal of violence as a disqualification.

MR. MONSOD: That is already a provision, Commissioner. I think we are dealing with the Gentleman's amendment. Our response to the amendment is, we regret we cannot accept it for the reasons mentioned.

MR. VILLACORTA: May I move that we vote on this issue.

VOTING

THE PRESIDENT: As many as are in favor of the proposed amendment of Commissioner Villacorta to add "THOSE WHICH ESPOUSE ALLEGIANCE TO FOREIGN GOVERNMENTS" as an additional ground for cancellation of registration, please raise their hand. (Few Members raised their hand.)

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

The results show 8 votes in favor and 13 against; the proposed amendment is lost.

MR. SUAREZ: Madam President, may we request that Commissioner Maambong be recognized for an amendment on Section 2 (6).

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, I really wonder how the Chairman and the members of the Committee are able to stay as strong after all this time. I am rather tired and I can understand why some of our colleagues who insisted that we go on overtime are no longer with us. Nevertheless, we will just have to continue the march. So that the Committee will not feel threatened, Madam President, my amendment is not very consequential; it is only a perfecting amendment.

On page 2, line 27, Section 2 (6), this particular provision reads: "On a verified complaint or on its own, file petitions in court for inclusion or exclusion of voters from the registry of qualified voters."

The Chair will notice that there is an alternative use of the words "for inclusion or exclusion." The problem, Madam President, is that, if we read this individually using the words "for inclusion," it would read "for inclusion of voters from," and that is ungrammatical. We do not include voters "from" but we include voters "in." And so, I suggest and I so move that on line 28, we delete the words "or exclusion" and the word "from" on line 29. Instead, we substitute the phrase IN OR EXCLUSION FROM so that this provision would now read: "On a verified complaint or on its own, file petitions in court for inclusion of voters IN OR EXCLUSION FROM the registry of qualified voters."

I move for the approval of this amendment, Madam President.

MR. MONSOD: The amendment is accepted, Madam President.

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

MR. REGALADO: Madam President, since this is a matter of perfecting amendments, I propose to add after the phrase "On a verified complaint or on its own" the word INITIATIVE and a comma (,) after, to make it more legalistic. The amendment would read: "On a verified complaint or on its own INITIATIVE, file . . ."

MR. MONSOD: The amendment is accepted, Madam President.

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

MR. REGALADO: Before we go further, Madam President, may I just move backwards a little to lines 12 and 13, Section 2 (10) which says: "Perform such other functions as may be provided by law." I move that this be deleted because it is already included in the Common Provisions.

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

MR. SUAREZ: Madam President, may we take the backward direction of Commissioner Regalado, and call on Commissioner de los Reyes for a proposed amendment to Section 2 (7) which we understand has already been

approved and accepted by the Committee.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, this has been cleared with the Committee for acceptance. I would like to state that there are 10 authors of this amendment and, therefore, we have saved 50 minutes at the rate of five minutes per author of amendment, and they are: Commissioners Nollado, Natividad, Sumulong, Tadeo, Rosario Braid, Gascon, Garcia, Maambong, Ople and myself.

On line 2, after the word "spending," we include the phrase INCLUDING LIMITATIONS OF PLACES WHERE PROPAGANDA MATERIALS SHALL BE POSTED, and then proceed to "and prevent and/or penalize all forms of election frauds, offenses and malpractices, nuisance candidacy or other similar cases."

THE PRESIDENT: Does the Committee accept?

MR. MONSOD: Yes, Madam President.

MR. DE LOS REYES: Thank you.

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

MR. SUAREZ: Madam President, may we call on the honorable Vice-President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Thank you, Madam President. On Section 7, page 4, lines 8 and 9, in lieu of the phrase "including rates, reasonable free space, and time allotments," we insert the following: TO ENSURE EQUAL OPPORTUNITY, EQUAL TIME, EQUAL SPACE AND RIGHT TO REPLY INCLUDING REASONABLE, EQUAL RATES THEREFOR., and then proceed to "for public information campaigns and forums among candidates for the purpose of ensuring free, orderly, honest, peaceful and CREDIBLE elections."

THE PRESIDENT: What does the Committee say?

MR. MONSOD: We accept, Madam President.

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

MR. SUAREZ: Madam President, may we request that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

This would be on page 3, Section 2 (7). I propose to delete the word "legislature" and change it to NATIONAL ASSEMBLY.

THE PRESIDENT: Does the Committee accept?

MR. MONSOD: The Committee accepts, Madam President.

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

MR. DAVIDE: Madam President, on line 3, after the comma (,) following the word "malpractices," I propose to add the words POLITICAL OPPORTUNISM.

THE PRESIDENT: Is the amendment acceptable to the Committee?

DR. MONSOD: Madam President, the Chair will notice that we took out from the entire Article references to turncoatism because we felt that in a real multiparty system that is not really applicable. So, we regret that we cannot accept the amendment.

MR. DAVIDE: Madam President, if that is also the reason, we should also delete "nuisance candidacy."

MR. MONSOD: Madam President, there is a difference between "political opportunism" and "nuisance candidacy." As we have read in the records earlier today, "nuisance candidacy" includes just putting up somebody else with the same name. There is jurisprudence on types of nuisance candidacy.

MR. DAVIDE: If the proposal will not be accepted, may an individual then be a guest candidate of another political party, meaning to say that two or more political parties will nominate him?

MR. MONSOD: That is not forbidden under this provision, Madam President.

MR. DAVIDE: If that is not forbidden, I will not insist on "POLITICAL OPPORTUNISM," Madam President, the proposal is withdrawn.

MR. UKA: Madam President, instead of that term "turncoatism," may I suggest "balimbing."

MR. SUAREZ: Madam President may we request that the final proponent, Honorable Maambong, be recognized.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, I propose a perfecting amendment on page 3, Section 2 (9), line 11, by deleting the word "and" before "referendum" and changing it to OR.

MR. FOZ: The amendment is accepted, Madam President.

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

MR. MAAMBONG: Madam President, in the same subsection, I propose to change the words "Batasang Pambansa" starting on line 9 to NATIONAL ASSEMBLY.

MR. FOZ: The amendment is accepted, Madam President.

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

MR. MAAMBONG: Madam President, on page 4, Section 9, lines 17 and 18, I propose to delete the comma (,) and the words "rules and regulations." I will just explain for a few seconds.

If my memory of my principles on criminal law serves me right, no administrative body or department of the government can promulgate rules and regulations which imposes penalties. The only body which can promulgate criminal laws is the legislative body and if other entities of the government promulgate rules and regulations which impose penalties, according to the Supreme Court, such would be unconstitutional and would constitute undue delegation of power.

So I propose the deletion of "rules and regulations" so that Section 9 would read: "No pardon, amnesty, parole or suspension of sentence for violation of election laws shall be granted by the President without the favorable recommendation of the Commission."

I move for the approval of the amendment, Madam President.

THE PRESIDENT: Does the Committee accept?

MR. REGALADO: We regret, Madam President, that we cannot accept, because after all, rules and regulations

which a legislature may authorize by law to be adopted by the Commission on Elections may also have some penal character if authorized by the legislature.

MR. MAAMBONG: I just want to say that that is not my understanding of the law, Madam President. I do not recall any decision of the Supreme Court which says that any entity, even a constitutional commission, can impose penalties which deprive people of liberty by such rules and regulations. It has to be by law.

This is rather a legal matter, Madam President, and probably we can ask the Vice-President or Commissioner Concepcion for an extended opinion on this matter, because I do not see any reason why we should put it there, if it is actually not in consonance with the law

THE PRESIDENT: May we request Commissioner Concepcion to enlighten Commissioner Maambong who is seeking enlightenment. t

MR. CONCEPCION: What has been done in the past is to include in the law itself the authority to promulgate rules and regulations, which violations shall be punished in accordance with the provisions of the law granting the authority. But the authority or the penalties are prescribed in the law itself. Of course, the regulations or rules in such cases may refer to the penalties provided in the law or by those authorized in the issuance of the rules and regulations.

THE PRESIDENT: Is that satisfactory? Does Commissioner Maambong still insist on deleting "rules and regulations"?

MR. MAAMBONG: From my understanding, the rules and regulations practically copy the law. If that is so, then what is the use of putting there the penalty under the rules and regulations when actually it is a recopy of the law as delegated?

MR. REGALADO: No.

THE PRESIDENT: What does Commissioner Regalado say?

MR. REGALADO: It is not putting the penalty in the rules, but the law itself may provide the penalty. For instance, the law may say that any violation of this provision of law or of any rule or regulation promulgated by the Commission pursuant to the authority therein conferred shall be punishable by _____.

MR. MAAMBONG: In other words, the penalty itself is in the law, not in the rules and regulations. With that understanding, Madam President, I will withdraw my amendment.

MR. SUAREZ: Madam President, there are no more proponents for amendments, so, can we move on to the voting on Second Reading?

THE PRESIDENT: Yes, let us move first to close the period of amendments.

MR. DE CASTRO: Madam President, before we move on to a vote on Second Reading, I recommend that we check whether we have a quorum or not.

THE PRESIDENT: Is there a quorum?

THE SECRETARY-GENERAL: Yes, Madam President, we have a quorum. There are 25 Members present.

THE PRESIDENT: There is a quorum.

Is there any objection to close the period of amendments? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF PROPOSED RESOLUTION NO. 521

ON SECOND READING

(Article on the Commission on Elections)

MR. SUAREZ: I move that we vote on Proposed Resolution No. 521, as amended, on Second Reading.

THE PRESIDENT: We will now proceed to vote on Proposed Resolution No. 521 regarding the Commission on Elections, as amended.

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

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

The results show 25 votes in favor and none against.

Proposed Resolution No. 521 on the Commission on Elections, as amended, is approved on Second Reading. (Applause)

MR. GASCON: Madam President.

THE PRESIDENT: Yes, Commissioner Gascon is recognized.

MR. GASCON: Next in the agenda of the Unfinished Business is the continuation of the motion to reconsider approval on Second Reading of Proposed Resolution No. 322.

I would like to request that we discuss this motion for reconsideration first thing tomorrow.

THE PRESIDENT: Is there a motion to adjourn?

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

ADJOURNMENT OF SESSION

MR. SUAREZ: Madam President, I move to adjourn until tomorrow at nine-thirty in the morning.

THE PRESIDENT: The session is adjourned until tomorrow at nine-thirty in the morning.

It was 9:08 p.m.

[*] Appeared after the roll call.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.