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Wednesday, August 20, 1986

CALL TO ORDER

At 9:46 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Edmundo G. Garcia, to wit:

"My heart praises the Lord;

My soul is glad because of

God my Saviour,

for He has remembered me,

His lowly servant!

From now on all people will

call me happy,

because of the great things

the Mighty God has done

for me.

His name is holy;

from one generation to

another

He shows mercy to those

who honor Him.

He has stretched out His

mighty arm

and scattered the proud with

all their plans.

He has brought down mighty
kings from their thrones,
and lifted up the lowly.
He has filled the hungry with
good things,
and sent the rich away with
empty hands.
He has kept the promise He
made to our ancestors;
and has come to the help of
His servant Israel.
He has remembered to show
mercy to Abraham
and to all His descendants
forever!"

Dear God, Father of our people, be with us till the end as we finish our task of writing a charter together with our people for the future.

We continue this effort in FAITH, knowing fully well that no matter how much we try, what we can produce is but an imperfect and unfinished document. Imperfect, because we are men and women with feet of clay holding imperfect tools in uncertain times. Unfinished, for no matter what we do, only the people can give life and meaning to the lines we write.

We continue this effort in HOPE, knowing that if we fail to say or fail to do what we must, someday our people will say or do what must be said or done in our barrios and cities, in our towns and countryside or in our autonomous regions.

Dear God, You, who can read between the lines, and even beyond them, we hope that You will perfect our efforts by Your guidance and loving kindness, in session or out of session, in season or out of season, for the good of our people and this country which You love so dearly.

Finally, we continue this effort in LOVE, knowing that when all is said and done, the one important thing is how we have loved our neighbor in word and deed, especially those who have less in life, those closest to Your heart, the lowly ones, the voiceless and the poor.

Dear God, You, who love our people and country more than any one of us here and more than we can imagine, stand by our side. We believe in the constancy of Your love. Because we may seem to be a poor and peripheral nation but it is no reason for us not to be proud and free, to be strong and self-reliant, to be independent and sovereign.

You who have crushed the proud from their thrones, lift up Your lowly ones and this our only country, brave isles

in difficult seas but beloved in Your eyes.

Dear God, we trust that You will be with us, now and always.

Amen.

ROLL CALL

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

Alonto, A. D.

Natividad, T. C.

Azcuna, A. S.

Nieva, M. T. F.

Bacani, T. C.

Nolledo, J. N.

Bengzon, J. F. S.

Padilla, A. B.

Bennagen, P. L.

Muñoz Palma, C.

Rosario Braid, F.

Rama, N. G.

Calderon, J. D.

Regalado, F. D.

De Castro, C. M.

Rigos, C. A.

Colayco, J. C.

Rodrigo, F. A.

Concepcion, R. R.

Romulo, R. J.

Davide, H. G.

Rosales, D. R.

Foz, V. B.

Suarez, J. E.

Garcia, E. G.

Sumulong, L. M.

Gascon, J. L. M. C.

Tan, C.

Jamir, A. M. K.

Tingson, G. J.

Laurel, J. B.

Uka, L. L.

Lerum, E. R.

Villegas, B. M.

Monsod, C. S.

With 35 Members present, the Chair declared of the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R.

Quesada, M. L. M.

Aquino, F. S.

De los Reyes, R. F.

Bernas, J. G.

Sarmiento, R. V.

Guingona, S. V. C.

Tadeo, J. S. L.

Maambong, R. E.

Villacorta, W. V.

Ople, B. F.

Mr. Treñas was sick.

Mr. Brocka was absent.

On August 19, 1986, Mr. Gascon, who was inadvertently marked absent, came late in the afternoon.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 582 — Constitutional Commission of 1986

Communication from Mr. Santiago Morales of the Philippine Chamber of Communications, Inc., Room 504 SMS Bldg., 120 Juan Luna, Binondo, Manila, requesting inclusion in the Constitution of the following proposed provision: "In the interest of national security and for the common good, no foreigner shall be allowed to sit in the governing body of public utilities nor shall any foreigner or foreign corporation, association or entity be allowed to be involved, through a management contract or other means, in the management, administration, operation, and control of public utilities."

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 583 — Constitutional Commission of 1986

Letter from Ms. Marie Francesca Yuvienco of St. Paul College, Quezon City, urging the retention of the United States military facilities in Clark Air Base and Subic Naval Base

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

Communication No. 584 — Constitutional Commission of 1986

Letter from Rev. Henry Habon of Tarlac, Tarlac, urging the Constitutional Commission to incorporate in the Constitution the provision on the inviolability of the separation of the church and the state, as embodied in the 1973 Constitution

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 585 — Constitutional Commission of 1986

Communication from the Sangguniang Bayan of Rosario, Agusan del Sur, signed by the Municipal Mayor-Designate Ruperto V. Bermudez, seeking the disbandment and/or abolition of the Philippine Constabulary (PC) and the Integrated Civilian Home Defense Forces (CHDF)

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 586 — Constitutional Commission of 1986

Letter from the Concerned Women of the Philippines, signed by fifteen members, reiterating its stand on "the sacredness of the family as a basic unit of society" and "the right to life of the unborn child which begins from the moment of conception"

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

Communication No. 587 — Constitutional Commission of 1986

Letter from Mr. Jose P. Dimalanta, Jr. of Tabuk, Kalinga-Apayao, requesting reconsideration of the Constitutional Commission's decision refusing the mechanism of limiting reelections thru a process of

effectively barring elective officials from running for the same public office after two or three terms, saying that, at this crucial stage in our history, there is a compelling need to apply the brakes to unlimited reelections and, perforce, to unabated abuse of power; otherwise, there will be a larger break from the sociopolitical mainstream that will be the breeding ground for future internecine civil strife

TO THE STEERING COMMITTEE

Communication No. 588 — Constitutional Commission of 1986

Letter from Mr. Ramon Y. Sy, UCPB Building, Makati Avenue, Makati, Metro Manila, submitting his position paper containing policy recommendations on the settlement of our foreign debt

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 589 — Constitutional Commission of 1986

Communication from Ms. Christina M. Liamzon, National Coordinator, Philippine Partnership for the Development of Human Resources in Rural Areas, submitting a position paper on the proposed amendments to Sections 5, 6, and 7 of the Article on Social Justice, expressing hope that these statements be given sufficient attention in the deliberations of the sections

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 590 — Constitutional Commission of 1986

Letter from Mr. Vicente D. Millora, transmitting a resolution of the Board of Governors of the Integrated Bar of the Philippines, urging the Constitutional Commission to provide in the Constitution a time limit of six (6) months from date of sequestration by the Presidential Commission on Good Government within which the corresponding action for forfeiture of ill-gotten wealth should be filed in court

TO THE COMMITTEE ON AMENDMENTS AND TRANSITORY PROVISIONS

Communication No. 591 — Constitutional Commission of 1986

Communication from the Convention of Philippine Baptist Churches, Inc., P.O. Box 263, Iloilo City, signed by its General Secretary, Rev. Penuelito A. Sacapaño, registering its opposition to a proposed constitutional provision which will make religious instruction in the public school compulsory or mandatory

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 592 — Constitutional Commission of 1986

Letter from Mr. Ernesto B. Hidalgo of Room 209 CCH Bldg., Alfaro St., Salcedo Village Makati, Metro Manila, submitting a proposed amendment to Section 9, Article XIV of the 1973 Constitution for inclusion in the new Constitution, to wit: "In cases where the exploration, development or exploitation of any of the country's natural resources requires a capital investment of ten million U.S. dollars (US \$10 million) or more, foreign citizens, corporations or associations may be allowed to own at least sixty percentum of the capital; provided, however, that said foreign citizens, corporations or associations must gradually dispose of at least twenty percent of its total equity to Filipino citizens within a period of ten years at the rate of two percent annually commencing from the start of actual commercial production."

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 593 — Constitutional Commission of 1986

Communication from Ms. Perla B. Sanchez of the Institute of Maternal and Child Health (IMCH), 11 Banawe St., Quezon City, endorsing an open letter signed by two hundred eighty-eight signatories with their respective

addresses, seeking the deletion of Section 9 of the proposed Article on Declaration of Principles, which states: "The State shall equally protect the life of the mother and the life of the unborn from the moment of conception."

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

Communication No. 594 — Constitutional Commission of 1986

Communication from five hundred ninety signatories with their respective addresses seeking the inclusion in the Constitution of a provision obliging the state to protect the life of the unborn from the moment of conception

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

RECOGNITION ON A QUESTION OF PRIVILEGE

Thereafter, on motion of Mr. Rama, the Chair recognized Mr. Alonto to speak on a question of privilege on the commemoration of the third death anniversary of former Senator Benigno S. Aquino, Jr.

QUESTION OF PRIVILEGE OF MR. ALONTO

Speaking on a question of privilege, Mr. Alonto adverted to President Muñoz Palma's previous announcement that the death anniversary of former Senator Benigno S. Aquino, Jr. was proclaimed part of the Peace and Freedom Week being observed throughout the country and, as his contribution, he had requested the privilege and honor of recalling some episodes in the life of this great Filipino whose death three years ago awakened the nation to political realities.

Mr. Alonto recalled that it was during the late Senator's self-imposed exile in the United States that he broke the serenity of that exile to venture to Saudi Arabia in search of peace and freedom for his country which was then suffering from an oppressive and tyrannical dictatorship.

Thereafter, Mr. Alonto adverted to the historic lecture delivered by Senator Aquino at the King Abdulaziz Science Auditorium on May 12, 1981 in Jeddah, Saudi Arabia entitled: The Historical Background of the Moro Problem in Southern Philippines which clearly manifested his concern for peace, freedom and democracy for that part of the Philippines, portions of which read as follows:

"My dear friends, over the last eight years as a result of the so-called Muslim Mini-War in the Philippines, more than a hundred thousand Filipino Muslims have lost their lives, over two hundred fifty thousand have come as refugees in neighboring Sabah, State of Malaysia, and more than one million have been displaced and rendered homeless. On the other side, according to President Marcos himself, about ten to eleven thousand Filipino soldiers have been killed over the last eight years as a result of the battle in Southern Philippines. These grim statistics have not captured the headlines of the world press and as a result, world public opinion have not been mobilized enough to clamor a halt to this senseless carnage. The Philippine Government under President Marcos calls the Muslims fighters as rebels, he calls them outlaws, he calls them insurrectionists, he calls them secessionists or worse, traitors to the Philippines. The Muslims on the other hand see themselves as patriots, as warriors, defending their homeland and their Islamic faith and sacred birthright of self-determination from infidel attacks. It is most unfortunate that Filipinos are fighting against Filipinos today.

I have come all the way from Boston precisely to urge our brothers especially the Moro National Liberation Front and the Bangsa Moro Liberation Organization . . . most probably to start their unity effort so that as one Muslim nation they will be able to present a more formidable force in any negotiation with the present

government. This evening, I would like to announce to you that the MNLF under Chairman Nur Misuari and the BMLO under Sultan Haroun Al-Rashid Lucman have finally joined forces and together they will now continue the struggle for the freedom of our Muslim brothers in Southern Philippines. Chairman Misuari heads this joint group and, together with the leadership of Sultan Lucman, will be rallying most of the Muslims not only here but in our country so that once united they will be able to present their case better in the halls of the Organization of the Islamic Conference and before the Philippine government and to work towards the resumption of the Tripoli Agreement and international bodies like the United Nations.

However, before I go into this, I would like to give you a brief history of the Muslim struggle. This struggle has gone for almost four (4) centuries and may be the last chapter of the classic encounter of the crescent and the cross. It is true that this conflict has many ingredients and has many causes — ethnic hostilities, economic rivalry, and political antagonism — but all these reasons are radically different understanding of each side as to what the conflict is all about. My point is, the Muslims look at this problem from one angle and the non-Muslims look at it from another angle. They cannot seem to agree on what they are saying and we have this incessant conflict. I will just cite an example, which is what happened last February. According to the best reports, there is an island outside of Jolo known as Pata Island. This island has about eleven thousand people. According to the reports, the military sent a battalion of soldiers to that island to inventory the firearms of the people. However, the soldiers came from Luzon who, not understanding the customs of our Muslim brothers in the South, occupied the mosque in that island. After they occupied the mosque, they got some pigs and dogs and started making "lechon" (pork grill) inside the mosque. Now you know that pork is one of those prohibited foods in the Muslim religion. But they did not notice that they were in a sensitive situation and so, they started cooking inside the mosque which naturally enraged the people in the village."

Mr. Alonto informed that he had read from the morning papers that Mr. Butz Aquino would soon leave for Jeddah for the purpose of meeting Mr. Nur Misuari.

Thereafter, Mr. Alonto read the last portion of the lecture of Senator Aquino which contained the solution the late Senator had proposed to the leaders of the Muslim communities led by Chairman Nur Misuari and Sultan Haroun Al Rashid Lucman, to wit:

1. We will note that in 1977, under the aegis of the Organization of the Islamic Conference, an agreement was signed in Tripoli known as the Tripoli Agreement. Under this agreement, our Muslim brothers have given up the quest for independence and they will remain in the Republic provided they are given autonomy in the thirteen (13) provinces of Mindanao. In the thirteen provinces of Mindanao we are going to give them autonomy in those regions. They will be able to set up their own security forces and they will be able to govern themselves. This was a very good beginning. For a while there was a ceasefire and there was no killing. Unfortunately, this agreement was not implemented, our President did not implement it to the letter and instead of discussing it with the Muslim leaders, he broke off and Mr. Marcos went on to implement it unilaterally. Instead of thirteen provinces, Mr. Marcos split it into two regions, one is Region IX and the other is Region XII and they removed three provinces. Naturally, our Muslim brothers said that is a violation of the Tripoli Agreement. The Tripoli Agreement talks of thirteen provinces, now reduced into ten and, what is worse, they were split into two.

I therefore would like to propose that the Philippine Government return to the original Tripoli Agreement. If the Philippine Government will return to the Tripoli Agreement, then we will make an appeal to our Muslim brothers to come back to the table so that we can discuss our problem rather than shoot it out. If we do not negotiate, my friends, there will be a return to bloodshed and more people will die. But we promised our Muslim brothers that if they will come back to the negotiating table, if they will come back to the Tripoli Agreement, then the entire Christian North will support them in their claim and once more we would like to propose affirmative actions on regions in Mindanao. What do I mean by this? If our regions in Mindanao are underdeveloped and they are entitled to only one school, our definition of affirmative action will increase your

school to four every year so that enmity between the two communities will be closed at the end of the century.

2. We believe that all Christian troops in Mindanao should be withdrawn from that area. It takes two to fight. If there are no more soldiers, there will be no more fighting and therefore we will be able to discontinue the fighting. All Christian troops will be removed from those Muslim areas and we will let the Muslims police themselves. We will tell them — We are removing the Christian troops and you set up your own police force, you set up your regional forces, you police yourselves because we do not want anymore conflict between Christian and non-Christian communities.

3. We will propose that the Muslims set up their own courts, their own Shari'a courts, their own schools, their own madrasahs. If they want to use Arabic to teach their children, let them use Arabic to teach their children. Why should we impose English or Tagalog if they want their own Arabic and therefore we believe that they should also have their own courts, and they should also have their own schools. Their local autonomy should be a Muslim and this should be elected by their own people. The national government will always support them if they are entitled to it by way of development. I believe the Muslim community should be allowed to call in their lawyers and set up their own civil code as against our own civil code. If this will be achieved it will go along essential opportunities that will signal the beginning of the renaissance in the Muslim Philippines which some five hundred years ago was the center of Filipino culture, learning and power. With the assistance of the Islamic Conference, funds for development could be secured to usher in a new prosperity, envision a system of official free institute all over the Philippines. We feel that if our brothers will be united and the hostilities will stop, we can set up training camps and educational institutions all over Mindanao so that the products of these institutions can come to the Middle East for better employment. If we appeal to the Organization of Islamic States, I believe the Filipinos now numbering a hundred and fifty thousand to two hundred thousand here will increase to more than half a million. And the possible solution come in all ways that I have discussed with you

Mr. Alonto stated that the aforequoted pronouncement of the late Senator Aquino had clearly proven that even in his trying and difficult days, his main concern was the freedom, peace and democracy of the people of the Philippines, irrespective of race or creed.

He then moved that in the consideration of the report of the Committee on Local Governments regarding the autonomous region, the formula that was given by the late Senator Aquino in his speech be taken into consideration.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, the Chair acknowledged the presence in the Session Hall of the students from St. Paul's College, St. Scholastica's College, Maryknoll College, Philippine School of Business and Arts (PSBA) and the Philippine Women's University; brothers from Mindanao and from the Cordillera region; other guests; and a big group of students from La Consolacion Grade School.

UNFINISHED BUSINESS: COMMITTEE REPORT NOS. 21 AND 25, AS AMENDED, ON PROPOSED RESOLUTION NO. 470 ON THE ARTICLE ON LOCAL GOVERNMENTS

On motion of Mr. Rama, there being no objection, the Body resumed consideration of Committee Report Nos. 21 and 25, as amended, on Proposed Resolution No. 470, entitled:

"Resolution proposing to incorporate in the new Constitution an Article on Local Governments."

Thereupon, the Chair recognized Mr. Nollado, Chairman of the Committee on Local Governments, and the members of the Committee for further individual amendments.

Thereafter, Mr. Rama requested the Members who have amendments to confer with the Committee to facilitate the proceedings.

SUSPENSION OF SESSION

On motion of Mr. Rama, the Chair suspended the session.

It was 10:24 a.m.

RESUMPTION OF SESSION

At 10:55 a.m., the session was resumed.

INQUIRIES OF MR. BACANI

Mr. Bacani prefaced his inquiries by informing that his proposed amendment consisting of the addition of the words CONSISTENT WITH THE PROVISIONS OF THE CONSTITUTION is being incorporated in the first paragraph of Section 4 which is the subject of an amendment by Mr. Regalado.

Relative to Section 4(10), Mr. Nollado affirmed that religion, being one of the prominent components of culture, is included in the preservation and development of customs, traditions and culture. He informed of the Committee's willingness to accept Mr. Davide's proposed amendment to reword Section 4(10) on lines 17 to 20 so that it would read "Preservation and development of THE CULTURAL HERITAGE OF THE REGION" stating that religious practices are covered under the term "cultural heritage".

On the suggestion to explicitly exclude religion from the legislative authority of the region, Mr. Nollado stressed that in the exercise of legislative authority over the cultural heritage of the region, the Constitution must be respected.

Mr. Bacani observed that in the autonomous regions of Mindanao, the Muslim village schools are teaching Muslim religion at the expense of the State. He sought confirmation if this should not be construed as a violation of the Constitution.

Replying thereto, Mr. Alonto denied that the teaching of Muslim religion in the different schools in Mindanao, be it private or public, is being supported by the State and pointed out that this is a voluntary endeavor undertaken by the communities in the same manner that there are people in Luzon and in the Visayas who volunteer to teach religion in public schools.

Mr. Bacani stated that he asked the question on the basis of an information he received that the State is supporting Muslim village schools. He then inquired whether it is the intent of the Committee to exclude government support for the teaching of Muslim religion in the Muslim village schools.

In reply, Mr. Nollado stressed that the provisions of the Constitution on the nonuse of government funds to promote religion should prevail all over the country, including the autonomous regions.

REQUEST OF MR. BENGZON

At this juncture, Mr. Bengzon stated that there were amendments to the first paragraph of the original Section 4 and he noted that what is being discussed is already Section 4(10). In view thereof, he suggested that the Body first dispose of the amendments to the first paragraph before proceeding to the other portions of Section 4.

Mr. Bacani acceded to the request, but he pointed out that his amendment, which is being transferred to and

incorporated in the first paragraph, relates to Section 4(10).

RESTATEMENT OF SECTION 4, AS AMENDED

Upon request of Mr. Bengzon, Mr. Nollado read Section 4 as amended, to wit:

"SECTION 4. Within its territorial jurisdiction, AND WITHIN THE FRAMEWORK OF THIS CONSTITUTION, NATIONAL POLICIES, LAW AND DEVELOPMENT, an autonomous region shall have legislative authority, AS PROVIDED IN ITS ORGANIC ACT, over the following:"

Mr. Nollado manifested for the record that the amendments to line 1 were authored by Messrs. Bacani, Bengzon, Monsod, Regalado and Foz while the amendment on line 2 was authored by Mr. Rodrigo.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's query relative to his observation that there are commas (,) placed after the words "Constitution", "national policies", "law" and "development", Mr. Nollado affirmed that the word "national" qualifies the words "law" and "development".

PROPOSED AMENDMENT OF MR. DAVIDE

In view thereof, Mr. Davide proposed the deletion of the comma (,) after the word "Constitution" and in lieu thereof, insert the word AND.

MOTION OF MR. BERNAS

Mr. Bernas stated that Section 4, being the central section of the Article on the Autonomous Regions, had been the subject of a number of amendments which had been accepted by the Committee. He then requested that the Members be furnished a copy of the amended draft of Section 4 for the purpose of more orderly and intelligent discussion, and while awaiting the amended copy, he suggested that the Body discuss the other sections.

Replying thereto, Mr. Nollado opined that the changes in Section 4 are very clear and could be easily understood by the Members. He assured that in presenting Section 4, as amended, he would read slowly and carefully so that the Members could easily perceive the changes.

In view thereof, Mr. Bernas converted his request into a formal motion and asked that it be submitted to a vote.

Mr. Nollado suggested that he would read Section 4, as amended, and have the Secretariat put it in writing, after which it could be reproduced, to which Mr. Bernas agreed, provided the Secretariat furnish the Members materials relevant thereto.

MANIFESTATION OF MR. MAAMBONG

At this juncture, Mr. Maambong informed the Committee that he submitted a proposed amendment to Section 4 which reads "Within the territorial jurisdiction, an autonomous region shall EXERCISE legislative authority WITHIN THE FRAMEWORK OF NATIONAL DEVELOPMENT PLANS, POLICIES AND GOALS over the following REGIONAL AFFAIRS:" He then asked the Committee to consider his proposed amendment.

In reply, Mr. Nollado stated that the amendments just read are substantially similar to the amendments which the Committee accepted. He then included Mr. Maambong as co-author thereof.

SECTION 4, AS AMENDED

Thereupon, Mr. Nollado continued reading the entire Section 4, as amended, to wit:

1) Administrative organization;

As amended by Mr. Rodrigo,

2) Regional taxation;

3) Ancestral domain and natural resources;

As amended by Mr. Foz,

4) PERSONAL, FAMILY AND PROPERTY RELATIONS;

As amended by Mr. Maambong,

5) INFRASTRUCTURE DEVELOPMENT INCLUDING urban and rural planning and development;

As amended by Mr. Maambong,

6) AGRICULTURAL, COMMERCIAL, AND INDUSTRIAL PROGRAMS AS WELL AS economic social and cultural development;

As amended by Mrs. Rosario Braid and Mr. Regalado,

7) Establishment, maintenance and administration of schools OFFERING FORMAL AND NONFORMAL EDUCATION, INCLUDING ADOPTION OF ADDITIONAL CURRICULA CONSISTENT WITH THE CULTURAL HERITAGE OF THE REGION;

As amended by Mr. Uka,

8) INDUSTRY AND tourism within the region;

As amended by Mr. Maambong,

9) Establishment, operation, maintenance AND ADMINISTRATION of health, welfare and OTHER social services, PROGRAMS AND FACILITIES;

Mr. Nollado manifested that there was no amendment on Subsection 10;

As amended by Messrs. Davide and Maambong,

11) Preservation and development of THE CULTURAL HERITAGE OF THE REGION;

As amended by Mrs. Rosario Braid,

12) PROMOTION OF ADEQUATE AND APPROPRIATE COMMUNICATION SYSTEMS FOR THE REGION; and

As amended by Mr. Maambong,

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

Mr. Nollado stated that "autonomous" before "region" was deleted.

Thereupon, Mr. Nollado requested the Secretariat to reproduce copies of Section 4, as amended, to be distributed to the Members of the Body.

AMENDMENT OF MR. MAAMBONG

At this juncture, Mr. Maambong proposed to insert the phrase AND OTHER REVENUE RAISING MEASURES after "taxation" on Subsection 2 of Section 4.

Mr. Nollado accepted the amendment.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed, on Section 5, line 26, to add s to "executive"; substitute "each" with THE; and add s to "unit".

Mr. Nollado accepted the amendment.

PROPOSED AMENDMENT OF MR. DAVIDE

Thereafter, Mr. Davide proposed, on Section line 27, to insert the phrase OF THEIR RESPECTIVE UNITS after "forces"; and on line 28, add AND SECURITY, after "defense" and to delete "against insurgency or invasion".

Mr. Nollado stated that the Committee had already accepted the proposed amendments previously submitted by Mr. Regalado on line 28, which reads, as amended, to wit: "The defense of the region against, LAWLESS VIOLENCE, REBELLION or invasion . . ." He added that he would accept Mr. Davide's proposal to add SECURITY.

Mr. Davide pointed out that his proposal would encompass the entire security and defense of the region.

At this juncture, Mr. Sarmiento proposed to amend Mr. Davide's amendment to reword the last sentence to read as follows: The defense and SECURITY of the region shall be the JOINT responsibility of the REGIONAL GOVERNMENTS and the National Government."

Mr. Davide rejected the proposal on the ground that the overall defense and security of the country is the responsibility of the national government and that in a joint responsibility, a deadlock may arise and, besides, the regional unit may demand defense and security power broader than that of the national government.

Mr. Sarmiento withdrew his proposal.

AMENDMENT OF MR. CONCEPCION

Mr. Concepcion proposed, on Section 5, line 26, to delete "chief" between "local" and "executive" on the ground that there is only one Chief Executive who is the President of the Philippines.

Mr. Nollado accepted the amendment.

INQUIRY OF MR. BENGZON

On Mr. Bengzon's query as to what the national government could do in case the peace and order situation in an autonomous region breaks down, Mr. Davide replied that the President could exercise his Commander-in-Chief powers.

Mr. Bengzon suggested the inclusion of a provision stating clearly that the police agencies in the autonomous regions would be under the supervision of the national government.

In reply thereto, Mr. de Castro pointed out that the Article on General Provisions would establish a national police force, civilian in nature and character, to be supervised by a National Police Commission (NAPOLCOM). He

added that in the event the local police agencies are unable to cope with their peacekeeping function, the NAPOLCOM could send reinforcements to help them.

On Mr. Bengzon's query on the ramifications should the problem be made the concern of the local police forces in the autonomous regions, Mr. de Castro explained that NAPOLCOM would have administrative supervision over the local police forces so that when a local executive, for instance, reports that the police forces in his area are corrupt and inefficient, the NAPOLCOM could remove and change them with other police units.

Mr. de Castro concurred with Mr. Bengzon's observation that while the local police agencies in the autonomous regions have the responsibility of maintaining peace and order in their areas, they do not have absolute power because the national government, through the NAPOLCOM, exercises general supervision and authority over these police forces considering that their recruitment and training are national in scope. He added that the autonomous regions may not be able, by themselves, to install equipment and laboratory and establish investigative agencies in order to professionalize their local police forces.

On Mr. Bengzon's query on the meaning of the sentence "The local executive of each constituent unit shall exercise general supervision over the local police forces" if the NAPOLCOM should exercise supervision over the local police forces, Mr. de Castro explained that the local executives should supervise the daily work of their police forces, adding that the Article on General Provisions has set the parameters relative to the supervisory jurisdiction of the local executive and the NAPOLCOM.

Thereupon, Mr. Maambong proposed to solve the problem with the insertion of the phrase WHICH SHALL BE ORGANIZED, MAINTAINED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS after "agencies" on line 25.

Mr. Maambong explained that his proposal was lifted from PD No. 1618 which organized the present regional autonomous regions to emphasize the relationship between the national government and the local police agencies.

AMENDMENT OF MR. LAUREL

At this juncture, Mr. Laurel proposed to reword line 26 to read as follows: LOCAL EXECUTIVES OF THE CONSTITUENT UNITS . . .

Mr. Nollado accepted the amendment.

SUSPENSION OF SESSION

Thereupon, the Chair suspended the session.

It was 11:36 p.m.

RESUMPTION OF SESSION

At 11:54 a.m., the session was resumed.

At this juncture, Mr. Maambong informed that Messrs. Bengzon and Natividad had agreed to be co-proponents of the amendment which had also been modified by Mr. Regalado who proposed "supervised". On the first sentence of Section 5, after the word "agencies", Mr. Maambong proposed to insert the phrase WHICH SHALL BE ORGANIZED, MAINTAINED, SUPERVISED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS so that the sentence, as amended would read: THE MAINTENANCE OF PEACE AND ORDER WITHIN THE REGION SHALL BE THE RESPONSIBILITY OF THE LOCAL POLICE AGENCIES WHICH SHALL

BE ORGANIZED, MAINTAINED, SUPERVISED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS. Mr. Maambong, moreover, stated that Mr. de Castro gave advice on the formulation.

REMARKS OF MR. NATIVIDAD

Mr. Natividad, upon request of the Chairman of the Steering Committee, placed on record that the insertion of the word "supervision" would mean that the local executives would be able to exercise day-to-day supervision over the normal operations of police agencies and for situations which may require "abnormal operations", the National Government could step in to manage the situation.

With respect to the observation raised by Mr. Bengzon that the problem might not stem from external forces but from failure or lack of discipline, Mr. Natividad explained that there are two kinds of discipline contemplated in the provision. Internal discipline, he informed, will be exercised by the local executives exercising supervisory powers over minor offenses on which disciplinary measures would be imposed. On the other hand, he clarified that external discipline shall be exercised by the National Police Commission which would have jurisdiction over serious offenses and the power to suspend, transfer and dismiss erring members of the police force. He added that the National Government shall maintain common training services and that there are at present one national police academy and 13 regional police academies which conduct police examinations of three classes yearly, provide for standard pays as well as payments of claims and death benefits, maintain crime laboratories and provide fire services facilities.

Mr. de Castro agreed with the statements of Mr. Natividad and noted in addition that to make the police force a truly good one, the first examination to be given should be an aptitude test to determine whether the examinees possess the aptitude to become policemen. He noted that members of the police force can only perform their duties after a three-month training in the police academy.

AMENDMENT OF MR. JAMIR

On line 24 of Section 5, Mr. Jamir proposed to delete the word "maintenance" and replace it with the word PRESERVATION.

Mr. Maambong, in accepting Mr. Jamir's amendment, noted that the use of PRESERVATION would avoid the repetition of the word "maintain" in the same sentence. The Committee likewise accepted the amendment.

INQUIRY OF MR. ROMULO

On lines 18 and 29 of Section 5, Mr. Romulo inquired whether in case there is a general failure of peace and order within the region, the National Government could intervene motu proprio or should await the request from the local executive, to which Mr. de Castro replied that the National Government could intervene motu proprio.

Upon inquiry, Mr. de Castro affirmed that the Armed Forces, in hot pursuit of a rebel force which enters the autonomous region, may continue to do so without permission of the local executive.

Mr. de Castro also affirmed that inasmuch as the defense and security of the autonomous region is the responsibility of the National Government, the Armed Forces, if it should suspect the presence of a sanctuary being used by the rebel forces within the autonomous region, may proceed to attack the rebel forces therein on its own authority.

As to whether such responsibility encompasses even the internal peace and order within the autonomous region, Mr. de Castro replied in the affirmative. He noted that Mr. Davide's amendment on lines 28 and 29 of Section 5

would have enabled him to better answer the questions raised by Mr. Romulo.

In summary; Mr. Romulo noted that whenever, in the opinion of the President, there is lawlessness or some disorder within the autonomous region which cannot be handled by the local police force, as Commander-in-Chief, the President could order the Armed Forces into the regional autonomous region and do whatever is necessary. Mr. de Castro affirmed that the President may exercise such powers even without request from the local executive.

Thereafter, Mr. Maambong restated the amendment as amended, to wit: "The PRESERVATION of peace and order within the regions shall be the responsibility of the local police agencies WHICH SHALL BE ORGANIZED, MAINTAINED, SUPERVISED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS".

There being no objection, the proposed amendment of Messrs. Maambong, Bengzon and Natividad was approved by the Body.

AMENDMENT OF MESSRS. DAVIDE AND REGALADO

On line 28 of the last sentence of Section 5, between the words "defense" and "of", Mr. Davide proposed to insert the words AND SECURITY and to delete the clause "against insurgency or invasion". He noted that the final sentence, taking into account the original proposal of Mr. Regalado who will be a co-author, shall read as follows: "The defense AND SECURITY of the region shall be the responsibility of the National Government".

There being no objection to the amendment which was accepted by the Committee, the same was approved by the Body.

At this juncture, Mr. Laurel noted that the second sentence would have to be approved before the Body could, proceed to the last sentence. In reply, Mr. de Castro explained that the acceptance of the amendment of Messrs. Maambong and Regalado automatically deleted the sentence: "The local chief executive of each constituent unit shall exercise general supervision over the local police forces", the reason being that it is contained in applicable laws.

Mr. Maambong confirmed that upon acceptance of his proposed amendment, the second sentence of the Section would be deleted inasmuch as the provision appears in the Article on General Provisions which was formulated by Messrs. de Castro, Natividad and himself. Section 5, as amended, would now read:

"SECTION 5. The PRESERVATION of peace and order within the regions shall be the responsibility of the local police agencies WHICH SHALL BE ORGANIZED, MAINTAINED, SUPERVISED AND UTILIZED IN ACCORDANCE WITH APPLICABLE LAWS. The defense AND SECURITY of the regions shall be the responsibility of the National Government."

There being no objection to Section 5, as amended, the same was approved by the Body.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to delete the entire Section 6, reasoning that it is no longer necessary inasmuch as autonomous regions can only exercise the functions enumerated in Section 4.

There being no objection to the amendment which was accepted by the Committee, the same was approved by the Body.

COMMITTEE AMENDMENT ON SECTION 7

Mr. Nollado informed that with respect to Section 7, the Committee had accepted the amendments of Messrs. Calderon, Jamir, Colayco, de Castro and Monsod. Section 7, as amended, would read:

"DURING THE TERM OF THE FIRST CONGRESS, IT SHALL PASS THE ORGANIC ACTS FOR THE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS."

Mr. Nollado clarified that the Committee deleted the one-year period stipulated in Section 7 so as to allow Congress a longer time.

MR. DAVIDE'S AMENDMENT TO THE

AMENDMENT ON SECTION 7

Mr. Davide proposed an amendment to the amendment by substituting the words "the first three years" with WITHIN THREE YEARS FOLLOWING THE CONVENING OF THE FIRST CONGRESS ELECTED UNDER THIS CONSTITUTION.

Mr. Nollado stated that the words "during the term of the First Congress" would be sufficient, it being the intention of the Committee that the organic act shall be passed within the first three years.

INQUIRY OF MR. BACANI

In reply to Mr. Bacani's query as to how the proposal would affect the Ople amendment which mandates that the organic act be passed within one year, Mr. Alonto stated, firstly, that in practice the Congresses are numbered and "period" in parliamentary parlance refers to the term of the Lower House; and secondly, because the Ople amendment would require a consultative commission to assist Congress in drafting the organic act, Congress must be given a leeway at least during the first term.

Reacting thereto, Mr. Ople manifested disagreement to the extension within which Congress may enact the organic laws. He stated that the Constitution is not only for the present generation but also for the generations to come and its writing just happens to be at a time when it is possible for the Commission to help the cause of peace and reconciliation in Mindanao and the Cordillera. He acknowledged that this is a valid objective which could be better served if the Commission would abbreviate the period, originally proposed to be one year within which Congress shall enact the organic laws, rather than extend it to three years. He pointed out that the proposed creation of the autonomous regions had raised to the highest pitch in history the hopes and expectations of the people in those regions that extending the period to three years might make them think that there had been a considerable relaxation from the original commitment of the Commission to provide real autonomy within a shorter period.

OBJECTION OF MS. TAN

Ms. Tan likewise interposed an objection to the extension of the period from one to three years on the ground that it would be unfair to make the Muslims and the Cordillera people wait just because Congress thinks it would need more time.

REMARKS OF MR. DAVIDE

Mr. Davide stated that he submitted the proposal only because the proposed amendment accepted by the Committee would prolong the period by considering the term of the First Congress. He stressed that in order to compel the First Congress to enact the measure, it must be within the term of the Lower House. He then manifested that he was in favor of the original proposal of one year.

Responding thereto, Mr. Nollado manifested that he was made to believe by Mr. Alonto that the three-year period would be reasonable. He stated, however, that in view of the objections of several colleagues, he would ask that the question be put to a vote.

MANIFESTATION OF MR. DE CASTRO

Mr. de Castro manifested that when he joined the amendment of Mr. Jamir, the deliberations would show that they were in favor of one year.

MANIFESTATION OF MR. BENNAGEN

Mr. Bennagen likewise manifested that he was strongly in favor of the one-year period in view of the urgency of the situation.

INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' query on whether it would still be difficult for Congress to come up with organic acts for the autonomous regions in Mindanao and Cordillera within one year with Presidential Decree No. 1618 as the guideline, Mr. Nollado agreed that while PD No. 1618, as amended by PD No. 1843-A, could be a sufficient basis for Congress to enact the organic acts, the provisions of these decrees are such that the autonomy given to these two regions was not truly meaningful because the Office of the President retained certain controls that even regional funds were subject to the laws and regulations for similar local and national financial transactions. Mr. Suarez then manifested support for the one-year period and expressed the hope that it would be sufficient for Congress to provide for all the mechanisms incident to the establishment of the two autonomous regions.

Mr. Nollado likewise agreed that the one-year period would be sufficient taking into account all considerations including the consultations authorized in Section 2.

WITHDRAWAL OF MR. JAMIR'S AMENDMENT

Mr. Jamir manifested that when he presented the amendment, Section 7 contained the provision that Congress would define the territorial jurisdiction of the autonomous regions but since the Committee relieved Congress of this duty, he was withdrawing his amendment.

Mr. Nollado accepted the withdrawal of the amendment.

RESTATEMENT OF SECTION 7

Mr. Nollado then restated Section 7, to wit:

THE CONGRESS SHALL, WITHIN ONE YEAR FROM ELECTION OF ITS MEMBERS, PASS THE ORGANIC ACTS FOR THE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS.

REMARKS OF MR. ABUBAKAR

Mr. Abubakar stated that aside from the Christians, there are Muslims in Mindanao who are now scattered in the Middle East and that among the leaders of a movement to free Mindanao from the archipelago is Nur Misuari who advocated autonomy which the government believed was an act of secession. He urged that the Commission provide for the establishment of autonomy in the region within the shortest time possible in order to foreclose the problem of secession.

INQUIRY OF MR. RODRIGO

Mr. Rodrigo posed the query whether a penalty would be imposed on Congress if it fails to comply with the provision.

At this juncture, the Chair suggested that the Members think over Mr. Rodrigo's query during lunch.

SUSPENSION OF SESSION

On motion of Mr. Rama, the Chair suspended the session until two-thirty in the afternoon.

It was 12:35 p.m.

RESUMPTION OF SESSION

At 2:47 p.m., the session was resumed.

ACKNOWLEDGMENT OF THE PRESENCE OF GUEST

Upon resumption, the Chair acknowledged the presence of students from the Rogationist College Seminary (Parañaque), Philippine Women's University and the delegations from Mindanao and the Cordillera

REMARKS OF MR. RODRIGO

The Chair recognized Mr. Rodrigo who was on the floor when the session was suspended.

Thereupon, speaking in support of his stand on the pending amendment, Mr. Rodrigo opined that the Body should not impose on Congress a very limited term of one year, from the time it convenes, within which to enact the organic acts both for the Muslim Mindanao and the Cordillera, for the following reasons: 1) the Congress tasked to enact these Acts would be the first since martial law and the members thereof would be mostly neophytes; 2) it would take time for Congress to organize — to adopt its rules, organize Committees and elect its officers; 3) Congress would have a membership coming from different parties on account of the adoption of a multi-party system and it would take time for them to form a coalition; 4) Congress would be bicameral and, therefore, before a bill could be enacted into law, it should pass both Houses; and 5) Congress would be saddled with the task of dismantling the many mistakes committed during the martial law regime.

Furthermore, Mr. Rodrigo reminded that Congress would be enacting the organic acts aside from the priority measures which it should enact, like the national budget, the public works bill and other bills of local application and national significance. He pointed out that before enacting the organic acts, the consultative commission that would be consulted by Congress on the matter should first be organized and this, he stated, would also take some time.

Finally, Mr. Rodrigo stated that he could not see any reason for insisting on the one-year period when even Messrs. Abubakar and Alonto, who come from Muslim Mindanao, agreed to give Congress more than one year.

REMARKS OF MR. RAMA

Mr. Rama informed that the Committee had earlier accepted the proposal to give Congress its full term to enact the organic acts and this term, he stated, would be five years and not three years. He then suggested that the debate be confined to this period.

REMARKS OF MR. OPLE

Mr. Ople stated that originally, the draft provision provides for six months within which Congress would enact the appropriate organic acts for the two autonomous regions, but after taking into account the concerns expressed by Mr. Rodrigo, the Committee decided to extend this period to one year.

Mr. Ople explained that the reason for the abbreviation of the period is the question of war and peace and the fact that autonomy is a momentous issue which places the territorial integrity and solidarity of the country at stake. He stated that the Commission is writing a peace Constitution with the hope that the Article on Social Justice would contribute to accelerating a climate of peace in the same manner that the provisions on Autonomous Regions would give constitutional permanence to the just demands and grievances of the people of Cordillera and Muslim Mindanao which had already cost 100,000 lives in Mindanao and which continues to shake the Cordillera with an armed as well as militant and peaceful struggles.

Mr. Ople expressed the view that Congress, in its wisdom, would see a momentous opportunity presented to it that through a one-year deadline, it would be able to bring to bear the crisis that besets the country and threatens the national solidarity. He pointed out that there are ongoing negotiations, aside from the fact that the Mindanao question would again be included in the agenda of the 42-nation Islamic Conference in its annual meeting. Rather than give the opportunity to foreign bodies, no matter how sympathetic to the Philippines, to contribute to the settlement of this issue, Mr. Ople stated that the Constitutional Commission should not miss the opportunity to put its stamp of definitive action on the settlement of problems that have been nagging the nation for so long.

Mr. Ople stated that while there is no question that Congress would be very busy, the momentous issues of national unity and of war and peace ought not to be taken lightly even in competition with other admittedly urgent priorities and that Congress should not begrudge itself the effort to address this question at the soonest possible time knowing that the solidarity and peace of the country are at stake. He maintained that one year is reasonably sufficient given the momentous character of the issues.

COMMENTS OF MR. ABUBAKAR

Mr. Abubakar acknowledged the concern expressed by Messrs. Rodrigo and Ople but he assured the Body that autonomy in the South is welcome any time. He opined that anyone imbued with enough patriotic fervor would like to grant autonomy to the South as soon as possible. He challenged the Commission, as well as the future legislature, not to set a time frame by amending the provision with the words "as soon as practicable." He pointed out that the absence of a time frame would challenge the patriotism of Congress to enact the organic act and should they fail, they will have to answer for it in the electoral forum.

Mr. Nollado took exception to the statement of Mr. Abubakar, pointing out that the words "as soon as possible" are not satisfactory to the Committee because it could be stretched to even ten years.

Thereupon, in reply to the Chair's query, Mr. Abubakar affirmed that "within the first term of Congress" would be a reasonable leeway.

REMARKS OF MR. BENNAGEN

Mr. Bennagen stated that the apprehension that Congress would find it difficult to expeditiously enact the organic act could be taken care of by Section 15, the fact being that, as in the public hearings, the multi-sectoral groups are already working on a special charter for the autonomous regions in anticipation of the approval of the provisions submitted by the Commission. He expressed optimism that given the spirit of Section 15, Congress would be able to pass the law within one year.

PROPOSED AMENDMENT OF MR. DE LOS REYES

Mr. de los Reyes offered a compromise amendment which would read: "The Congress shall, within one year from ITS ORGANIZATION, ENDEAVOR TO pass the organic acts for the autonomous regions in Muslim Mindanao and the Cordilleras".

Mr. Ople accepted the amendment in the context that it would allow Congress a margin of voluntary choice.

REMARKS OF MR. SARMIENTO IN SUPPORT

OF MR. OPLE'S AMENDMENT

Speaking in support of Mr. Ople's amendment, Mr. Sarmiento adverted to the Spanish saying "grandes malos, grandes remedios" which means great maladies, great problems demand great solutions. He pointed out that there is a protracted civil strife in Mindanao which has cost the lives of thousands, and continuing human rights violations. He opined that given the gravity of these problems, Congress, in its prudence, foresight and acumen, would try its best to pass an organic act within one year, besides it would not be starting from scratch because the multi-sectoral bodies are doing their best to help formulate an organic act

REMARKS OF MR. RODRIGO

Mr. Rodrigo urged the Body to make a choice between giving Congress one year or three years. He pointed out, however, that giving Congress three years does not mean that Congress would wait until about the expiry of three years before acting. He stressed that the Members of Congress, being the elected representatives of the-people, some of whom would come from these autonomous regions, should be presumed to act with concern for the well-being of the people. He questioned the propriety of giving Congress a time limit which could place its Members in an embarrassing situation.

Mr. Rodrigo stressed that being merely appointed, the Commission should not impose any time limit on Congress whose Members are elected by the people, and if the Body would insist on setting the term, it should be reasonable enough to allow them some elbow room. He inquired whether Congress could be penalized if it would not be able to enact the organic laws within one year. He opined that a provision which carries no sanction is useless and, at the same time, it would appear as an ugly impression that Members of Congress could not be relied upon to enact the organic laws on their own volition.

He then suggested that the Body vote for a period between one year and three years to simplify matters.

REMARKS OF MR. PADILLA

Mr. Padilla stated that the Muslim Members of the Commission had informed the Body that the present autonomous regions of Regions IX and XII are in actual operation and that even the special courts are functioning.

He then manifested his support for the proposal to allow Congress to enact the organic laws for the autonomous regions within its first term, and not after. He cautioned the Members of the Body not to use such terms as "highest priority", and "foremost or utmost" because the Commission should give Congress sufficient discretion and judgment to act as the Members see fit. He added that the Commission should not also give too many special legislative authority to local legislative assemblies in autonomous regions because while it must concede local autonomy to the two regions, the Commission should not forget that the other regions are likewise entitled to similar autonomy.

SUSPENSION OF SESSION

On motion of Mr. Rama, the Chair suspended the session.

It was 3:20 p.m.

RESUMPTION OF SESSION

At 3:36 p.m., the session was resumed.

AMENDMENT OF MR. DE LOS REYES, AS AMENDED

Upon resumption, Mr. de los Reyes read the compromise provision, to wit:

THE CONGRESS SHALL WITHIN EIGHTEEN (18) MONTHS FROM THE ORGANIZATION OF BOTH HOUSES PASS THE ORGANIC ACTS FOR THE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS.

Mr. Davide proposed to amend the proposal by inserting FIRST before "Congress"; and before "shall", insert the phrase ELECTED UNDER THIS CONSTITUTION.

Mr. de los Reyes accepted the amendment.

Mr. Nollado, likewise, accepted the amendment.

On Mr. Rodrigo's query as to the meaning of "from the organization", Mr. de los Reyes explained that organization includes the election of the President of the Senate, the Speaker of the House of Representatives and the other officers thereof, and the formation of the different Committees. He added that it also includes the adoption of the respective Rules of both Houses.

APPROVAL OF SECTION 7

Thereafter, Mr. Nollado read Section 7, as amended, to wit:

SECTION 7. THE FIRST CONGRESS ELECTED UNDER THIS CONSTITUTION SHALL WITHIN EIGHTEEN (18) MONTHS FROM THE TIME OF ORGANIZATION OF BOTH HOUSES PASS THE ORGANIC ACTS FOR THE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS.

Submitted to a vote, and with 30 Members voting in favor and none against, the same was approved by the Body.

Thereafter, Mr. Nollado read Section 4, as amended, copies of which have already been distributed to the Members, to wit:

SECTION 4. WITHIN ITS TERRITORIAL JURISDICTION, AND WITHIN THE FRAMEWORK OF THIS

CONSTITUTION AND NATIONAL POLICIES, LAW, AND DEVELOPMENT, AN AUTONOMOUS REGION SHALL HAVE LEGISLATIVE AUTHORITY, AS PROVIDED IN ITS ORGANIC ACT, OVER THE FOLLOWING:

1)

ANCESTRAL DOMAIN AND ADMINISTRATIVE ORGANIZATION;*

2)

REGIONAL TAXATION AND OTHER REVENUE RAISING MEASURES;

3)

ANCESTRAL DOMAIN AND NATURAL RESOURCES;

4)

PERSONAL, FAMILY AND PROPERTY RELATIONS;

5)

INFRASTRUCTURE DEVELOPMENT INCLUDING URBAN AND RURAL PLANNING AND DEVELOPMENT;

6)

AGRICULTURAL, COMMERCIAL AND INDUSTRIAL PROGRAMS AS WELL AS ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT;

7)

ESTABLISHMENT, MAINTENANCE AND ADMINISTRATION OF SCHOOLS OFFERING FORMAL AND NONFORMAL EDUCATION INCLUDING ADOPTION OF ADDITIONAL CURRICULA CONSISTENT WITH THE CULTURAL HERITAGE OF THE REGION;

8)

PROMOTION AND REGULATION OF TRADE, INDUSTRY AND TOURISM WITHIN THE REGION;

9)

ESTABLISHMENT, OPERATION, MAINTENANCE AND ADMINISTRATION OF HEALTH, WELFARE AND OTHER SOCIAL SERVICES, PROGRAMS AND FACILITIES;

10)

PROTECTION OF THE ENVIRONMENT IN ACCORDANCE WITH STANDARDS AND REGULATIONS OF THE NATIONAL GOVERNMENT;

11)

PRESERVATION AND DEVELOPMENT OF THE CULTURAL HERITAGE OF THE REGION;

12)

PROMOTION OF ADEQUATE AND APPROPRIATE COMMUNICATION SYSTEMS FOR THE REGION; AND

13)

SUCH OTHER MATTERS AS MAY BE AUTHORIZED BY LAW FOR THE PROMOTION OF THE GENERAL WELFARE OF THE PEOPLE OF THE REGION.

PROPOSED AMENDMENT OF MR. MAAMBONG JOINTLY WITH MR. DAVIDE

At this juncture, Mr. Maambong manifested that he and Mr. Davide had presented perfecting amendments to the first paragraph of Section 4 so that the same would read as follows:

WITHIN ITS TERRITORIAL JURISDICTION, AND WITHIN THE FRAMEWORK OF THIS CONSTITUTION AND THE LAWS AND DEVELOPMENT PLANS, POLICIES AND GOALS OF THE NATIONAL GOVERNMENT, AN AUTONOMOUS REGION SHALL HAVE LEGISLATIVE POWERS, AS PROVIDED IN ITS ORGANIC ACT, OVER THE FOLLOWING:

The Sponsor did not accept the proposed amendment because the plans, goals and policies of the national government, as well as the development plans would be provided by technocrats in the administrative level since in the proposal, they were separated from the word "laws", and that said plans, goals and policies may negate the powers granted under the Section.

Mr. Maambong explained that the relation between national policies, law and development in the original formulation was not so specific, hence, the addition of "plans" and "goals".

In reply to Mr. Suarez' query, Mr. Maambong affirmed that the phrase "laws and national development plans, policies and goals" was taken from Section 10 of Presidential Decree No. 1618.

INQUIRY OF MR. PADILLA

In reply to Mr. Padilla's query on whether the thirteen items enumerated in Section 4, as amended, must be included in the organic act or legislative measure to be enacted by Congress, Mr. Nollado stated that in order to strengthen local autonomy, it would be mandatory for Congress to include them, but the autonomous regions need not legislate on all of them if their legislatures so decide.

On whether Congress would have no authority to modify or make alterations on what would be included in the organic act, Mr. Nollado stated that Congress would still have discretion in laying down some reasonable conditions under which such powers may be exercised. He affirmed, however, that Congress could not eliminate anyone of them.

On whether other political subdivisions, like the province, would have similar legislative power or authority, Mr. Nollado stated that other provinces not included within the autonomous regions to be created would have to derive their powers and authority from national laws and not under Section 4. He explained that regional taxation, for instance, includes the power of other political units to impose taxes. He pointed out, however, that not all the thirteen powers could be exercised by other political subdivisions, like the administrative organization of other local government units which has to be provided for in the Local Government Code.

Mr. Nollado also affirmed that the two autonomous regions would, in effect, be granted additional legislative powers which were not enjoyed by other political units, but said powers would be subject to national policies and laws.

Thereupon, Mr. Padilla stated that he was against Section 4 because it would discriminate against the other political subdivisions in the country and, he opined, would be class legislation in favor of the two autonomous regions.

Mr. Nollado pointed out that class legislation does not apply to Constitutional provisions, in reply to which Mr.

Padilla maintained that, in a technical sense, class legislation may not be invoked, but the principle of equality vis-a-vis discrimination applies both to the Constitution and the laws.

In this connection, Mr. Ople further explained that the Committee intends to grant autonomy to the two regions to make them self-sufficient and to allow self-determination within the larger national framework which consists of other dominant communities like the Tagalogs, Visayans, Ilocanos, among others. He pointed out that there would be no discrimination because the other local governments are granted local autonomy under the first part of the Article, and that the enumeration in Section 4 of the areas over which the autonomous regions may legislate would be part of the effort to help the two regions develop at par with the dominant national communities.

INQUIRY OF MR. REGALADO

In reply to the query of Mr. Regalado, Mr. Nollado reiterated that it would be mandatory upon Congress to provide in the organic act what are enumerated in Section 4. He added, however, that if the organic acts would not include all of the items enumerated in Section 4, the autonomous regions may nevertheless exercise such power which the Constitution has provided. He stated that he would recommend that the same principles apply to other autonomous regions that would be created.

Mr. Regalado then suggested the deletion of the phrase "as provided in its Organic Act", so that the sentence would read: AN AUTONOMOUS REGION SHALL HAVE LEGISLATIVE AUTHORITY OVER THE FOLLOWING:, in order that such legislative powers would be uniformly conferred upon all autonomous regions, in reply to which, Mr. Nollado stated that the phrase "as provided in its Organic Act" was included because although Congress may not eliminate one of these powers, it may provide reasonable conditions in the Organic Act by which such powers may be exercised.

MOTION FOR A VOTE

At this juncture, Mr. Rama called for a vote on Mr. Maambong's proposed amendment, which the latter seconded, and urged for its approval since it did not actually diminish the intent of the original formulation of the Committee.

SUSPENSION OF SESSION

Thereupon, the Chair suspended the session to give the Committee time to decide on the proposed amendment.

It was 4:03 p.m.

RESUMPTION OF SESSION

At 4:23 p.m., the session was resumed.

Upon resumption of session, Mr. Maambong informed that the introductory clause of Section 4 had been reformulated and would cover his proposed amendment.

PROPOSED AMENDMENT OF MR. BERNAS

Thereafter, Mr. Bernas proposed to amend the clause, to wit:

"Within its territorial jurisdiction AND WITHIN THE FRAMEWORK OF THE CONSTITUTION AND NATIONAL LAWS, THE ORGANIC ACT of autonomous REGIONS shall PROVIDE FOR legislative POWERS over:".

In view thereof, Mr. Maambong withdrew his amendment in favor of Mr. Bernas' amendment.

MR. DAVIDE'S AMENDMENT TO THE AMENDMENT

Mr. Davide proposed to change the phrase "within the framework" to SUBJECT TO THE PROVISIONS OF THIS, which Mr. Bernas accepted.

The Committee accepted the amendment, as amended, to wit:

"Within its territorial jurisdiction, AND SUBJECT TO THE PROVISIONS OF THIS CONSTITUTION AND NATIONAL LAWS, THE ORGANIC ACT OF AUTONOMOUS REGIONS SHALL PROVIDE FOR LEGISLATIVE POWERS OVER:".

There being no objection, the amendment was approved by the Body.

Thereafter, the Body considered the following subsections:

1) "Administrative organization"

There being no objection, Subsection 1 was approved by the Body.

2) "Regional taxation and other revenue raising measures"

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed to amend the phrase to CREATION OF SOURCES OF REVENUE so as to harmonize it with the provision on local autonomy related to the "creation of sources of revenue".

Upon inquiry of Mr. Alonto, Mr. Davide affirmed that the phrase includes the power to impose, collect and levy taxes, fees and charges.

There being no objection to the amendment which was accepted by the Committee, Subsection 2 was approved by the Body.

Mr. Maambong noted that "other revenue-raising measures" was his amendment which was accepted by the Committee. He maintained that legislative power can tax but cannot create sources of revenues. In reply to his request for reconsideration, Mr. Nollado stated that the use of the phrase "creation of sources of revenue" is appropriate and has been approved by the Body.

3) "Ancestral domain and natural resources"

Mr. Rodrigo raised the question whether it shall be understood that under the regalian doctrine, the minerals within the autonomous regions shall belong to the State, to which inquiry Mr. Bernas replied that that is subject to the provisions of the 1986 Constitution and national laws.

There being no objection, Subsection 3 was approved by the Body.

4) "Personal, family and property relations"

There being no objection, Subsection 4 was approved by the Body.

Mr. Suarez asked what law shall prevail in case of conflict between the national law and the personal, family and property relations law obtaining in the autonomous region, to which Mr. Alonto replied that the provision was included among the legislative powers of the autonomous region because of the difference between the national law and such family and personal laws. Additionally, Mr. Nollado stated that the national law shall give way

inasmuch as the State is mandated to preserve and develop the cultural heritage of the region. By way of example, he adverted to the Muslim personal law embodied in PD No. 1083 which recognizes absolute divorce among Muslims as an exception to the Civil Code which is a national law.

Upon inquiry of Mr. Suarez, Mr. Nollado affirmed that upon conversion of the region into an autonomous region, the personal, family and property law of the region would prevail over the national law.

5) "Regional urban and rural planning and development"

Mr. Sarmiento observed that infrastructure development is covered by the phrase "urban and rural, planning and development" and proposed the deletion of "infrastructure development". Mr. Bernas replied that this has been amended correspondingly.

At this juncture, Mr. Monsod posed the question whether a national development program approved by Congress would be a national law within the context of national law in the introductory clause of Section 4. Mr. Alonto affirmed that it would be a national law provided that it does not come into conflict with what has been granted to the autonomous region.

In reply to Mr. Monsod's query whether a provision in the national development program for the establishment of a copper smelter in Leyte would give the Cordilleras the option to set up their own copper smelter assuming that mineral resources are available therein, Mr. Bennagen stated that a Yes or No answer to this question is not easy inasmuch as there are certain considerations which have to be taken into account. He noted that the provision for consultation stipulates that there should be adequate information at the regional and national levels to serve as the basis for any decision whether separate infrastructure projects in any of the regions would be warranted.

Upon inquiry of Mr. Monsod, Mr. Bennagen responded that in case of conflict, the possible social harm which could be inflicted on the host region should be examined.

Mr. Bennagen, upon inquiry, denied that the region would have the power to incur foreign debt.

INQUIRY OF MR. CONCEPCION

In reply to Mr. Concepcion's query whether the laws of the autonomous region follow its inhabitants as when an inhabitant of an autonomous region whose laws permit bigamy commits the act of bigamy in Manila with a woman who is a native of a province not belonging to the autonomous region, Mr. Alonto stated that if he is outside the jurisdiction of the autonomous region, he commits bigamy, since he would be subject to the jurisdiction of the place where he is.

Specifically, in the case of a Muslim from the autonomous region who commits bigamy with a woman who is a resident of Manila, the second marriage being celebrated in Manila, Mr. Nollado stated that in such case, being a Muslim, he could invoke as a defense his personal law which recognizes bigamy as legal although it is the court in Manila that would have jurisdiction over the case. Mr. Nollado, however, stated that this problem has not yet been remedied by any specific provision of law, thus the recommendation that when Congress enacts the personal law that would govern the Muslims, such problem should be taken into account.

INQUIRY OF MR. SUAREZ

In reply to Mr. Suarez' query on whether the divorce law, applicable and operative in the autonomous region, would be effective and valid after the ratification of this new Constitution, Mr. Nollado stated that it is the Committee's intent that the special law shall prevail over the national law considering that the Commission is bound to preserve and develop the customs and traditions as well as the cultural heritage of the region. He also

affirmed that the regional legislative assembly could enact a law allowing divorce among inhabitants of the autonomous region.

On whether a husband and wife who were inhabitants of an autonomous region but who later moved to Manila could get a divorce in the Metro Manila regional trial courts, Mr. Nollado stated that such problem could be resolved in the Code to be enacted by Congress.

REMARKS OF MR. BENNAGEN

Mr. Bennagen invited attention to a paper of Atty. Perfecto V. Fernandez of the UP College of Law, published in the Philippine Law Journal, entitled Towards a Definition of National Policy on Recognition of Ethnic Law within the Philippine Legal Order, which lists a number of categories depending on whether there is mutual enhancement of ethnic law and national law, to wit:

"Those in whose ethnic law the norms prevailing would not only run counter to national values or objectives but would also, even within the limited sphere of operation, create substantial harm to such national values or objectives. For this sector the substantial harm to national interest that they can cause places them beyond the outer limit or boundary mentioned above. Instead of recognition, the response must be negative, ranging from denial of recognition by declaring even the rules themselves invalid or the outcome of that operation invalid or both, through criminal prohibition of what such norms may allow or recognize.

"It will readily be seen that the operation of ethnic law to the extent recognized or permitted as above discussed, must be founded on a concept analogous to the principle of nationality in conflict of laws situations. Here the jurisdictional foundation must be the fact of membership of the parties to the dispute in the particular cultural community whose ethnic law is involved. Unless both parties are members, the ethnic law can have no application."

Reacting thereto, Mr. Bernas stated that once these provisions are approved, Congress would be mandated to make the necessary adjustments to existing national laws and the extent to which Congress would be willing to make the adjustment would have to be weighed very carefully. He pointed out, however, that in the matter of divorce laws, since all these local laws would have to be within the framework of national laws, it is almost a command to Congress that in the implementation of this autonomous plan, it would be necessary for Congress to reformulate national laws including making the necessary exemptions.

REMARKS OF MR. MAAMBONG

Mr. Maambong read into the record certain paragraphs from the book, entitled An Introduction to the Code of Muslim Personal laws, by Esteban B. Bautista of the UP Law Center, to wit:

"Nor is it true, contrary to the now current misconception or speculation, that the Muslims will now be governed solely by their legal system and be exempt from observing other Philippine laws. Muslims will continue to be governed by the laws of general application like the Revised Penal Code, except in certain cases as to bigamy under Article 180 and other penal laws, the Land Registration Act, Public Land Act, Mining Law, Forestry Law, Fisheries Act, the Land Transportation Code, the Tax and Customs Laws, the commercial laws, the Civil Service Law, all public laws in fact, and many others.

"The Civil Code itself will continue to be applied to the Muslims, except in so far as it relates to persons and family relations and successions like inheritance. Indeed, even with respect to these matters, the Civil Code is expressly given supplementary application. Thus, if an ejectment suit should arise between two Muslims or between a Muslim and a non-Muslim, the Civil Code or any other applicable law will apply. If the dispute refers to a mining claim or to a piece of land, the Mining Law or the Land Registration Act or Public Land Act, as the case may be, will govern.

"Nor need the non-Muslims in the Muslim areas fear that they will now be governed by the Muslim legal system. It will apply to them and other non-Muslims in other areas only in the limited instances provided for in the Code."

INQUIRY OF MR. REGALADO

Adverting to Section 4(4) on the application of personal law, family law and property relations law with respect to the inhabitants of the autonomous regions, Mr. Regalado inquired whether the Committee also took into account their religious affiliation, because under Republic Act No. 349 and Article 78 of the Civil Code, two Christians, although living in a non-Christian province, are still bound by the Civil Code except when they embrace the Muslim faith or paganism. He then inquired on the basis of the application of these special laws in the autonomous regions, to which Mr. Alonto replied that the philosophy behind the issues involved in the laws cited holds true in the case of the autonomous region. He pointed out that a Christian couple living in an autonomous region could not avail of divorce just because they are living within the autonomous region.

Mr. Regalado expressed the apprehension that the Commission seemed to have created a secondary set of conflict of law rules, considering that whereas formerly conflict of laws was between the law of nations, the Commission had added a secondary stratum of a conflict of law rule within the same municipal forum, to which Mr. Nollado replied that this conflict of internal municipal laws could be remedied by legislation, although religious affiliation would be considered. He pointed out that the Civil Code contains a provision designed to assimilate the Muslims within the legal system such that Muslim law applies to the Muslims and the Civil Code to the Christians. He stated that a period of twenty years was provided during which the Muslim law shall be respected, after which, the Civil Code shall govern all inhabitants of the country. He pointed out, however, that the question of assimilation has become complicated, which was the reason why Mr. Marcos issued PD No. 1083 codifying the Muslim personal laws and recognizing the practices, customs and traditions among the Muslims, and even allowing divorce.

In this connection, Mr. Nollado gave the assurance that factors such as religion and residence would be considered by Congress in the passage of appropriate legislation.

REMARKS OF MR. MONSOD

With respect to Section 4(5), Mr. Monsod stated the possible ways of resolving any reservations on this paragraph, firstly, that everything involving foreign relations, foreign trade, foreign debt and immigration shall be considered outside the realm of legislative power of the autonomous region; and secondly, it is assumed that the national development program would include the autonomous regions and that before it is promulgated and passed upon by Congress, it would already have reconciled the regional programs of the autonomous region. He suggested that the Commission leave it at that rather than have in the records of the Commission an answer that could be construed as giving the autonomous regions the right to incur foreign debt or to establish a project which is not consistent with the national development program.

Mr. Nollado noted that said observations were well taken.

Reacting thereto, Mr. Bennagen affirmed that in the deliberations of the Committee, it was the understanding that foreign relations, foreign trade, banking and international migration are not within the purview of the autonomous region and that the balancing of regional development and national development could be done through systematic consultation, to which Mr. Monsod added that the balancing is resolved in the program itself, otherwise, it would not be a national development program.

Mr. Bennagen observed that it had been the experience that national development plans were sometimes not sensitive to regional ecology and regional culture. He stated, however, that since there would be a systematic consultation antecedent to the formulation of a development plan, it is not the intention of the Committee to assume that the autonomous regions would be outside the national development program of the country.

Thereupon, Mr. Nollado underscored that the term "property relations" should cover only relations affecting property in marriage and inheritance, which topics are covered by the Muslim Personal Law or PD No. 1083.

AMENDMENTS OF MR. BERNAS

As proposed by Mr. Bernas and accepted by the Sponsor, the Body approved the following amendments:

1. Subsection 5 should read REGIONAL, URBAN AND RURAL PLANNING AND DEVELOPMENT;
2. Subsection 6 should read ECONOMIC, SOCIAL AND TOURISM DEVELOPMENT;
3. Subsection 7 should read EDUCATIONAL POLICIES; and
4. Subsection 8 should read PRESERVATION AND DEVELOPMENT OF THE CULTURAL HERITAGE,

INQUIRY OF MR. BACANI

In reply to Mr. Bacani's query, Mr. Alonto agreed that the phrase "preservation and development of the cultural heritage" would mean that it would be a regional policy to protect the Islamic character of the region.

On whether under such policy it is possible that laws would prohibit missionary activities as contrary to the preservation of the Islamic character of that region, Mr. Nollado stated that any of these powers could not alter the provisions of the Constitution in the sense that freedom of religion must be respected within the region.

Mr. Bacani stated, however, that missionaries may be hindered in the propagation of their religion. He stated that he would be contented if such preservation would not mean the curtailment in any manner of the activities of other religions in their attempt to propagate their faith.

Mr. Abubakar stated that Islam in its real meaning is peace. In countries like Indonesia and Malaysia, where Islam prevails, he stated that there is not only freedom of religion but also permissive character in the government itself for it allows missionary schools as La Salle to organize and spread their teachings. This freedom of religion, he pointed out, is equally extended to the non-Muslim population of these countries in the sense that as a Philippine diplomatic representative, he never encountered any protest from the sectarian schools as to their treatment and he had seen harmony among the different faiths as far as the exercise of their beliefs is concerned. He stressed that Islam is a tolerant religion and values human life so that everyone could live together in complete harmony and understanding.

APPROVAL OF SECTION 4(8)

Submitted to a vote, and there being no objection, the Body approved Section 4(8), as amended.

INQUIRY OF MR. BACANI

On whether the preservation and development of the cultural heritage of the region would include the teaching of Muslim religion in their own public schools, Mr. Alonto stated that the teaching of religion is permitted in any school in the autonomous region.

On whether this provision would mandate the continuation of the policies in the madrasah schools where the

teaching of religion is compulsory and there is budgetary support from the State, Mr. Alonto stressed that the State is not allowed to spend for the promotion of religion because of the constitutional provision on the separation of the Church and the State. He disputed the position paper of the Catholic Bishops Conference of the Philippines where it stated that in the madrasah schools, the teaching of religion is compulsory and supported by the State. He further stated that he is not aware that any government fund is being spent for these schools considering that these are private.

Mr. Uka confirmed that the madrasah schools are private schools and they are not subsidized by the government. He pointed out that there is a certain Canadian bishop who had contributed a lot to the Muslims and who would rather die in the country than in any other place. He stated that Islam recognizes Christians and in support of this, he recited several verses in the Koran which have some parallelism with the Christian faith.

Mr. Bacani manifested for the record that he asked those questions not to oppose but to clarify the intent of the provision.

MANIFESTATION OF MR. BERNAS

Mr. Bernas read Section 4(9) which was the original subsection 13 to wit: SUCH OTHER MATTERS AS MAY BE AUTHORIZED BY LAW FOR THE PROMOTION OF THE GENERAL WELFARE OF THE PEOPLE OF THE REGION.

He also manifested that subsections 9, 10 and 12 were already deleted.

The Committee accepted the amendment including the deletions.

INQUIRY OF MR. SUAREZ

On the query of Mr. Suarez on the compelling need to enumerate all these legislative powers, Mr. Bernas stressed that the Body is not writing an abstract Constitution but a Constitution in the context of the current ferments within the nation. He pointed out that the enumeration becomes a necessity to indicate to the nation that the Body listened to the aspirations and desires of the people.

Mr. Suarez pointed out that PD No. 1618 enumerated the same powers but it did not stifle the ferment adverted to. He then inquired whether the inclusion of said enumeration would stop these ferments, to which Mr. Bernas stressed that having the Constitution explicitly recognize these powers would in the same manner recognize the very importance of these problems.

Relative to the enumeration of these powers, on Mr. Davide's inquiry whether these powers would include national defense and security, foreign relations or foreign trade, customs and tariff, quarantine, currency, monetary affairs, foreign exchange, banking and quasi-banking, external borrowing, posts and communications, air and sea transport, immigration and deportation, citizenship and naturalization and general auditing, Mr. Nollado replied that these would properly belong to the national government so that not even the organic act could grant legislative powers over these matters. He stressed that these are exercised traditionally, constitutionally and legally by the national government.

INQUIRY OF MRS. QUESADA

In reply to the query of Mrs. Quesada on whether the term "social development" in subsection 9, would encompass the establishment, operation, maintenance and administration of health, welfare and other social services programs, Mr. Bernas affirmed that Subsection 9 would be encompassed both under social development

and under the general welfare clause of the last item.

INQUIRY OF MR. MAAMBONG

On whether the Committee is aware that the excluded powers are enumerated practically in toto in Section 4 of PD No. 1618, Mr. Nollado stated that it was not in toto, in the sense that national, economic, social and educational planning was not mentioned by Mr. Davide and this may fall in some respects under the powers of the regional government. He also cited Section 4(5) not mentioned by Mr. Davide because they are qualified by the powers of the regional government.

INQUIRY OF MR. REGALADO

In reply to Mr. Regalado's inquiry, Mr. Nollado affirmed that the provisions enumerated in PD No. 1618 to be outside the exclusive power of the national government and slightly amended by Section 4 are the ones contemplated under Section 6 of the draft Article to the effect that "all powers, functions and responsibilities not granted by this Constitution or by law to the autonomous region shall be vested in the national government", which provision, he stated, had already been deleted. It is for this reason, he opined, that there is need for Mr. Davide to enumerate the powers that pertain to the national government for posterity and for legal purposes.

On Mr. Nollado's suggestion that he would want to reinstate the deleted provision, Mr. Regalado stated that it would be clearer than just reading these powers into the record.

On the suggestion to manifest for the record the intent of the Committee instead of reinstating the deleted provision, Mr. Regalado stated that he would favor more the reinstatement of Section 6 in order to be more specific.

Mr. Nollado stated that the Committee would be willing to entertain an amendment to reinstate the deleted provision.

APPROVAL OF SECTION 4(9)

There being no further objection, the Body approved Section 4(9).

RESTATEMENT AND APPROVAL OF SECTION 4,

AS AMENDED

Mr. Bernas restated Section 4, as amended, to wit.

SECTION 4. Within its territorial jurisdiction AND SUBJECT TO THE PROVISIONS OF THIS CONSTITUTION AND NATIONAL LAWS, THE ORGANIC ACT OF autonomous REGIONS shall PROVIDE FOR legislative POWERS over:

1)

Administrative organization;

2)

CREATION OF SOURCES OF REVENUES;

3)

Ancestral domain and natural resources,

4)

PERSONAL, FAMILY AND PROPERTY RELATIONS;

5)

Regional URBAN AND RURAL PLANNING and development;

6)

Economic, social and TOURISM DEVELOPMENT;

7)

EDUCATIONAL POLICIES;

8)

Preservation and development OF THE CULTURAL HERITAGE; and

9)

SUCH OTHER MATTERS AS MAY BE AUTHORIZED BY LAW FOR THE PROMOTION OF THE GENERAL WELFARE OF THE PEOPLE OF THE REGION.

INQUIRY OF MR. FOZ

In reply to Mr. Foz' query, Mr. Nollado affirmed that the term "law" would refer to national law passed by Congress.

REMARKS OF MR. MAAMBONG

Mr. Maambong manifested his desire to correct certain misconceptions made during the previous session relative to the discussion of Muslim law.

On the statement that Shari'a Courts may not be part of the country's judicial system, Mr. Maambong read Article 137 of the Code of Muslim Personal Laws, to wit: "The Shari'a Courts are made part of the country's judicial system and together with their personnel are subject to the administrative supervision of the Supreme Court".

With respect to the special examination conducted in order to qualify certain lawyers to become members of the

Shari'a Courts, Mr. Maambong read for the record Articles 140 and 152 of the Code of Muslims and Personal Laws, to wit: "Anyone, even non-Muslim, who has the necessary qualifications may be appointed for this purpose".

On whether decisions of Shari'a Courts are appealable to a higher court, Mr. Maambong adverted to Article 145 of the same Code which states that "The Supreme Court is given the power to review decisions of the Shari'a District Courts".

Mr. Nollado clarified that as far as the Committee is concerned, it was stated that the Shari'a Courts fall within the judicial system of the Philippines and with respect to the third manifestation, the Committee also made the same statement in relation to Mr. Foz' amendment.

Mr. Maambong stated that he was referring to the discussion on the floor and not in the Committee.

AMENDMENT OF MR. REGALADO

Mr. Regalado proposed to reinstate Section 6 which reads:

ALL POWERS, FUNCTIONS AND RESPONSIBILITIES NOT GRANTED BY THIS CONSTITUTION OR BY LAW TO THE AUTONOMOUS REGIONS SHALL BE VESTED IN THE NATIONAL GOVERNMENT.

The Committee accepted Mr. Regalado's proposed amendment.

As the proponent of the deletion of Section 6, Mr. Davide stressed that all those powers are inherent in the Congress of the Philippines and insofar as the autonomous regions are concerned, he stated that there are only exceptions. He maintained that it would not be necessary to incorporate them in the Constitution because it is understood that all other powers not granted to the autonomous regions are reserved to Congress, but if said provision is reinstated, it would create the impression that the Commission is creating another entity equal in rank to Congress.

Replying thereto, Mr. Nollado stated that had Mr. Davide not asked the question whether the powers he enumerated would fall under the jurisdiction of the national government, he would not have agreed to the amendment proposed by Mr. Regalado because it would imply that if there is any power not enumerated, it necessarily pertains to the autonomous regions.

Mr. Davide stated that he asked the question precisely to put a limit to the authority which may be granted by the organic act because what he enumerated are untouchables that not even the organic act could diminish those powers.

Mr. Regalado maintained that Section 6 does not only refer to Congressional powers but even extends to executive powers as well as all other functions and responsibilities. He stressed that the purpose of restoring the provision is to make clear the limits of the powers of the autonomous governments. He added that those which were not enumerated are actually to be exercised by the national government and yet some of these exceptions under PD No. 1618, which were supposed to be untouchables under the previous regime, were slightly qualified and modified by the amendments on Section 4 as introduced by Mr. Bernas.

With this understanding, Mr. Davide withdrew his objection.

PROPOSED AMENDMENT OF MR. OPLE
JOINTLY WITH MESSRS. BENNAGEN,
AZCUNA, RAMA, UKA, ALONTO,

ABUBAKAR AND BACANI

Mr. Ople proposed to add a new section which reads as follows:

SECTION 8. CONGRESS MAY PROVIDE CERTAIN FORMS OF AUTONOMY AS MAY BE APPROPRIATE TO OTHER CULTURAL COMMUNITIES WITHIN THE FRAMEWORK OF EXISTING TERRITORIAL AND POLITICAL SUBDIVISIONS, SUBJECT TO THE PROVISIONS OF THIS CONSTITUTION AND NATIONAL LAW. FOR THIS PURPOSE, IT MAY CREATE A PERMANENT COMMISSION AS AN ADVISORY BODY TO THE PRESIDENT.

Mr. Ople explained that the purpose of his proposal is also to provide some form of autonomy to at least 3 million other minority Filipinos, including non-Muslim tribes in Mindanao, estimated to be at least 2 million, and such lesser tribes in Luzon such as the Mangyans of Mindoro, Dumagats of the Sierra Madre provinces of Bulacan, Quezon, Rizal and Nueva Ecija, the Aetas of Zambales, the Tagbanuas of Palawan and numerous others.

He added that the proposal is so worded that Congress would have the utmost flexibility to provide for the manner and degree of autonomy that would precisely fit the great variations of conditions and levels of economic and social development of these smaller and widely scattered groups. He also stated that Congress may or may not vest a juridical personality in any of these communities. He stressed that the main intent of his proposal is to recognize their cultural identities and their entitlement to a measure of autonomy within the framework of the existing political subdivisions.

Mr. Ople also explained that the proposed Commission would oversee the implementation of any future act of Congress with respect to these cultural communities and, probably, help codify their customary laws and traditions; recommend to the President the policies and measures that would promote their welfare, safeguard their rights and keep Congress up-to-date on the progress of measures intended to protect and benefit them.

Mr. Sarmiento objected to the proposal because it would amplify the provisions on local autonomy and at the same time open the floodgates for the creation of more autonomous regions.

He added that the creation of a permanent Commission as an advisory body to the President has no place in the proposed Article; and that the other tribes mentioned by Mr. Ople did not ask for autonomy except the people from Muslim Mindanao and the Cordilleras.

Responding thereto, Mr. Ople explained that the fears of Mr. Sarmiento that if the proposal would be approved it would pave the way for the creation of more autonomous regions is unfounded because it is merely a permissive statement for Congress to determine whether or not to give autonomy to the other tribes which would be appropriate to each of them. He also pointed out that in Zamboanga City, representatives of non-Muslim tribes claiming to represent more than 2 million people gathered recently to communicate to the government their own demand for attention. He stressed that the proposal merely empowers Congress to grant some form of autonomy when, in its opinion, other tribes had attained a certain standard where they could be granted a certain degree of autonomy.

At this juncture, the Chair stated that in view of Mr. Sarmiento's objection, the Body would temporarily defer the consideration of the proposal until the next day.

ADJOURNMENT OF SESSION

Thereafter, the Chair declared the session adjourned until eleven o'clock in the morning of the following day.

It was 5:55 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA

President

Approved on August 21, 1986

* See the Journal of August 21, 1986 for the correction.

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