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Friday, June 27, 1986

OPENING OF SESSION

At 9:14 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The Session is called to order.

NATIONAL ANTHEM

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

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Serafin V.C. Guingona.

Everybody remained standing for the Prayer.

PRAYER

MR. GUINGONA: Almighty Father, we humbly pray for Your divine guidance so that we may be able to correctly perceive and discern the sentiments and desires of our people as to what should be contained in the proposed Constitution and so that we may conformably and accurately crystallize and express these sentiments and desires.

Grant us the wisdom so that in our efforts, truth and justice may prevail, the humility to accept the ideas of others which may conflict with ours, bearing in mind that we are here to serve the interests of our people, and the physical endurance to accomplish the many and varied tasks before us.

Help us never to forget to be concerned with the common good, for the welfare of our people, particularly the poor and the deprived, in this our work of drafting our people's constitution, one which would seek to establish in this fair land a community characterized by moral regeneration, social progress for all, political stability, economic prosperity, love and concern for one another.

Grant us to use the responsibility that You have given us to the fullest advantage of our people and our country. Make us realize fully and well that our acts and omissions in this momentous endeavour would inevitably be judged by our people now and by those of future generations and by You.

We give You thanks for this great opportunity to serve our people and we pray that with Your divine assistance, we shall not fail the. AMEN

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Absent Natividad Present [*]

Alonto Present [*] Nieva Present

Aquino Present Nollado Absent

Azcuna

Present Ople Present [*]

Bacani

Present Padilla Present

Bengzon Absent Quesada Present

Bennagen

Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present [*]

Brocka Present Rigos Present

Calderon Present [*] Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion

Present Sarmiento Present

Davide Absent Suarez Present

Foz Present Sumulong Absent

Garcia Present Tadeo Present

Gascon Absent Tan Present

Guingona Present Tingson Present

Jamir Present Treñas Present

Laurel Present Uka Present

Lerum

Present Villacorta Present[*]

Maambong Present Villegas Present[*]

Monsod Present

The President is present.

The roll call shows 34 Members responded to the call.

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

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

APPROVAL OF JOURNAL

MR. RAMA: I move that we dispense with the reading of the Journal of yesterday's session and that we approve the same.

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

MR. RAMA: Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT: Is there any objection? (Silence)

The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolutions on First Reading and Communications, the President making the corresponding references:

PROPOSED RESOLUTIONS ON FIRST READING

Proposed Resolution No. 296, entitled:

RESOLUTION TO INCLUDE IN THE PROPOSED CONSTITUTION SECTION ONE OF ARTICLE III OF THE 1973 CONSTITUTION WITH MODIFICATION.

Introduced by Hon. Treñas and Suarez.

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

Proposed Resolution No. 297, entitled:

RESOLUTION PROPOSING TO ADOPT IN THE CONSTITUTION AN ARTICLE FOR THE BILL OF RIGHTS OF CITIZENS.

Introduced by Hon. Tingson.

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

Proposed Resolution No. 298, entitled:

RESOLUTION PROPOSING FOR THE CREATION OF A SEPARATE MINISTRY ON CULTURAL COMMUNITIES.

Introduced by Hon. Tingson.

To the Committee on Human Resources.

Proposed Resolution No. 299, entitled:

RESOLUTION PROVIDING FOR THE ESTABLISHMENT OF A SEPARATE MINISTRY OF CULTURE.

Introduced by Hon. Tingson.

To the Committee on Human Resources.

Proposed Resolution No. 300, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CHARTER A PROVISION ON THE COMPULSORY STUDY OF ETHNIC FILIPINO CULTURES IN ALL SCHOOLS.

Introduced by Hon. Tingson.

To the Committee on Human Resources.

Proposed Resolution No. 301, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE NEW CONSTITUTION A STATE POLICY ON TOURISM RESPECTING THE CUSTOMS, TRADITIONS, AND BELIEFS OF NATIONAL CULTURAL COMMUNITIES.

Introduced by Hon. Tingson.

To the Committee on Human Resource.

Proposed Resolution No. 302, entitled:

RESOLUTION TO DELETE THE PROVISION UNDER DECLARATION OF PRINCIPLES IN BOTH THE 1935 AND 1973 CONSTITUTIONS POSTULATING THAT "THE DEFENSE OF THE STATE IS THE PRIME DUTY OF THE GOVERNMENT AND PEOPLE" AND TO THIS END TO COMPEL EVERY CITIZEN TO RENDER MILITARY SERVICE — A DANGEROUS ANACHRONISM THAT SHOULD YIELD TO THE SOUNDER AND MORE RELEVANT PRIORITY THAT THE GOVERNMENT'S PRIMARY DUTY IS TO LIFT THE LIVING LEVEL OF OUR IMPOVERISHED PEOPLE AND TO DEFEND THEIR BASIC FREEDOMS.

Introduced by Hon. Rama.

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

Proposed Resolution No. 303, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION FOR THE COMPULSORY TEACHING OF HUMAN RIGHTS IN ALL LEVELS OF EDUCATION AS WELL AS IN NONFORMAL TRAINING TO PERSONS AND INSTITUTIONS TASKED TO ENFORCE AND GUARANTEE THE OBSERVANCE OF HUMAN RIGHTS.

Introduced by Hon. Quesada and Bennagen.

To the Committee on Human Resources.

Proposed Resolution No. 304, entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON TRANSITORY PROVISIONS OF THE NEW CONSTITUTION A PROVISION MANDATING JUDICIAL CONFIRMATION OF ADMISSIONS TO PHILIPPINE CITIZENSHIP UNDER OR PURSUANT TO A DECREE PROMULGATED BY THE PAST REGIME.

Introduced by Hon. Davide, Jr.

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

Proposed Resolution No. 305, entitled:

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

Introduced by Hon. Davide, Jr.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 306, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION EXCLUDING FROM THE RULE ON DOUBLE COMPENSATION, PENSIONS OR GRATUITIES.

Introduced by Hon. Davide, Jr.

To the Committee on General Provisions.

Proposed Resolution No. 307, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION REQUIRING THAT ONLY CITIZENS OF THE PHILIPPINES OR CORPORATIONS WHOLLY OWNED BY SUCH CITIZENS CAN ENGAGE IN COMMERCIAL TELECOMMUNICATIONS AND THAT MEMBERS OF BOTH THE GOVERNING AND MANAGING BODIES THEREOF SHALL BE FILIPINO CITIZENS.

Introduced by Hon. Davide, Jr.

To the Committee on General Provisions.

Proposed Resolution No. 308, entitled:

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

Introduced by Hon. Davide, Jr.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 309, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON NATIONAL PATRIMONY AND ECONOMY.

Introduced by Hon. Gascon.

To the Committee on the National Economy and Patrimony.

Proposed Resolution No. 310, entitled:

RESOLUTION TO PROVIDE FOR INITIATIVE AND REFERENDUM ON THE NATIONAL AND LOCAL LEVEL IN THE NEW CONSTITUTION.

Introduced by Hon. Gascon.

To the Committee on the Legislative.

Proposed Resolution No. 311, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION PROVISION FOR THE ESTABLISHMENT AND MAINTENANCE OF A COMPLETE, ADEQUATE, INTEGRATED AND NATIONALISTIC SYSTEM OF EDUCATION RELEVANT TO THE GOALS OF NATIONAL DEVELOPMENT.

Introduced by Hon. Gascon.

To the Committee on Human Resources.

Proposed Resolution No. 312, entitled:

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

Introduced by Hon. Suarez and Jamir.

To the Committee on Constitutional Commissions and Agencies.

Proposed Resolution No. 313, entitled:

RESOLUTION TO PROVIDE FOR AN ANNUAL BUDGET FOR THE JUDICIAL DEPARTMENT TO ENSURE ITS INDEPENDENCE.

Introduced by Hon. Suarez, Tadeo, Colayco, Jamir and Treffas.

To the Committee on the Judiciary.

Proposed Resolution No. 314, entitled:

RESOLUTION PROHIBITING THE STATE OR ANY OF ITS SUBDIVISION OR INSTRUMENTALITIES FROM REQUIRING A PERMIT FOR THE HOLDING OF RALLIES, DEMONSTRATIONS OR OTHER FORMS OF MASS OR CONCERTED ACTION IN THE EXERCISE OF THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE AND PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCES.

Introduced by Hon. Foz.

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

COMMUNICATIONS

Letter from the Protestant Lawyers League of the Philippines signed by Messrs. Glenn Palumbon and Samuel Matunog, expressing their desire to sponsor a public hearing on the declaration of principles, bill of rights and/or national patrimony and economy, preferably on July 3, 1986.

(Communication No. 63 — Constitutional Commission of 1986)

To the Ad Hoc Planning Committee on Public Hearings.

Resolution No. 56 of the Sangguniang Bayan of Monkayo, Davao, requesting the inclusion in the Constitution of provisions for forest lands reform program.

(Communication No. 64 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letters from the Honorable Roberto R. Concepcion and the Honorable Ambrosio B. Padilla, referring the letter of Mr. Jose F. Francisco of Sauyo, Novaliches, Quezon City, submitting proposed provisions on the judiciary.

(Communication No. 65 — Constitutional Commission of 1986)

To the Committee on the Judiciary.

Letter of Mr. R. Leonidas of 55 Chestnut St., Fairview Park, Quezon City, submitting proposals on the appointment of the Members of the Judiciary.

(Communication No. 66 — Constitutional Commission of 1986)

To the Committee on the Judiciary.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 263

(Article on National Territory)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA: We are still in the period of sponsorship and debate on Proposed Resolution No. 263 on the provision on National Territory.

I ask that Commissioner Azcuna be recognized to interpellate the sponsor.

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

May we ask the sponsor, Commissioner Nollado, to please come forward.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 9:29 a.m.

RESUMPTION OF SESSION

At 9:41 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, I ask that Commissioner Regalado be recognized to discuss this provision.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

Actually, my purpose in seeking recognition at last night's session was to seek clarification from the sponsor on the matter of the phrases and terminologies used in this Proposed Resolution No. 263 which I notice, with the exception of the last sentence thereof, is a virtual reproduction of the same provision in the 1973 Constitution. What I wanted to clarify here was the meaning, among others, of the phrase "all the other territories belonging to the Philippines by historic right or legal title." My readings, as admitted by the sponsor last night, were to the effect that this phrase was used for the purpose, inter alia, not of foreclosing a possible claim to Sabah and to the Kalayaan group of islands. Since that was the purpose for that phrase in the 1973 Constitution, what I wanted was a specific clarification on whether the phrase in the proposed resolution carries the same intendment as that in the

1973 Constitution, meaning, that by reproducing exactly the same phrase we are not foreclosing any future claim over Sabah to which Commissioner Tingson dissented.

My other purpose was to make the meaning of "insular shelves" clear because the term used in the United Nations Convention on the Law of the Sea was "continental shelf," whereas we are using the term "insular shelves." I wanted to clarify whether the term "insular shelves" has the same concept as "continental shelf" although irregular in form. In other words, the term "continental shelf" refers to those countries which are parts of a continent. I wanted to know — since the Philippines is an archipelago — whether the sloping down of the different islands thereof into the sea, thereby producing an irregular contour from their respective insular shelves, would be under the same concept and purpose for which "continental shelf" was considered in the United Nations Convention on the Law of the Sea.

I also wanted a clarification on the distinction between the internal waters and the territorial waters of the Philippines, which under the Convention are up to a limit not exceeding 12 nautical miles measured from the baselines. Is the same concept used now in the proposed resolution in contradistinction, meaning, are we still maintaining the same distinction between territorial waters of the Philippines not exceeding 12 nautical miles and the baselines and internal waters which are those enclosed within the baselines, regardless of the breadth or dimension thereof?

Another matter which I wanted clarified is the incorporation in the present proposed resolution of the last sentence which says that sovereignty or jurisdiction of the Philippines shall also extend to straits connecting these waters with the economic zone provided for in the United Nations Convention on the Law of the Sea.

In the Journal of last night's session, the sponsor stated that it was necessary to refer to the United Nations Convention on the Law of the Sea because, after all, there were reservations on the part of former Senator Tolentino, among others, insofar as the right of innocent passage was concerned. So, it was on that understanding that the Convention was ratified.

I would beg to differ from that statement because under Article 309 of the United Nations Convention on the Law of the Sea, no such reservations are allowed when the Treaty or the Convention is ratified. For that reason, it was even necessary for former Senator Tolentino to submit a declaration of the Philippine government upon the signing of the United Nations Convention on the Law of the Sea on December 10, 1982, wherein he, in effect, made the same reservations taking advantage of the provision of Article 310 of the Convention which, however, requires the harmonization of our national laws with the Convention.

Also, the sponsor stated that it was necessary to incorporate herein the economic zone provided for in the United Nations Convention on the Law of the Sea, although he admitted that Ambassador Arreglado had repeatedly told them not to advert to the Law of the Sea in their discussions. We have studies to the effect that the economic zone we seek to protect as part of the territory of the Philippines and the right to exploit the same need not necessarily make reference to the Law of the Sea. In a study on this matter, it was pointed out that without ratifying the Convention, the Philippines could avail not only of the 12-mile territorial sea and the 200-mile exclusive economic zone, but also the definition of the continental shelf as binding rules of international law to which we, after all, had expressly adhered.

As a matter of fact, under Proclamation No. 370 of March 20, 1968, the Philippines asserted sovereignty over the mineral resources of the continental shelf, as defined in Article 3 of the Petroleum Act, in accordance with the Geneva Convention of 1958. Presidential Decree No. 1599 proclaimed a 200-mile exclusive economic zone for the Philippines on June 11, 1978, declaring that such a zone is now a recognized principle of international law. As a matter of fact, Presidential Decree No. 1599 followed exactly the provisions of the concept of an exclusive

economic zone under the international convention now in question. The United States likewise proclaimed a 200-mile economic zone without signing the Convention.

So, if the purpose here was to protect Philippine jurisdiction over the waters coextensive with the economic zone, there would be no need for providing in the Constitution that this refers to the same as understood in the Convention on the Law of the Sea because this is already an accepted principle of international law.

The matter of the "territorial sea" also bothers me because in the 1973 Constitution, as well as in the proposed resolution, the Philippines asserts sovereignty by historic right or legal title not only over the land area involved therein but also over the territorial sea.

MR. MAAMBONG: Madam President, may I seek recognition?

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: I really hate to interrupt Commissioner Regalado at this point, considering that he is giving us so much elucidatory information. But I must raise, Madam President, a point of parliamentary inquiry, considering that we are at present in the fourth period of sponsorship and interpellation. I do not really mind Commissioner Regalado taking the floor, considering the absence of the sponsor, but I wonder if Commissioner Regalado is a member of the Committee.

MR. REGALADO: No, I am not. Madam President, this procedure was precisely suggested by the Floor Leader in the absence of the sponsor whom I intended to interpellate with clarificatory questions. I wanted to bring these matters to his attention and to elicit a response-negative or otherwise-as to whether or not these things I am revealing now were considered by his Committee.

MR. MAAMBONG: Yes, but the Commissioner is not an author of any of the resolutions indicated in the committee report, is he?

MR. REGALADO: There is no elucidation in the committee report. Precisely, I intended this to be in the form of questions.

MR. MAAMBONG: I am just asking a point, a very basic point-whether the Commissioner is an author of a resolution which was indicated in the committee report.

MR. REGALADO: No, these observations were originally intended to be questions addressed to the sponsor.

SUSPENSION OF SESSION

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

It was 9:52 a. m.

RESUMPTION OF SESSION

At 9:57 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: During the suspension, the Floor

Leader and Commissioner Regalado clarified that Commissioner Regalado was not actually standing in representation of the Committee in the absence of the sponsor. Commissioner Regalado is actually presenting

questions for the sponsor to answer when he is available.

In that case, Madam President, I think it is entirely proper but subject to the answer of the sponsor, considering that we are still in the period of interpellations. I was a little bit confused because I thought Commissioner Regalado was standing in representation of the sponsor or the Committee, or as an author. But since he is neither a member of the Committee nor an author, I thought it was a violation of the Rules. Since it is now clear to me that he was actually interpellating, that is entirely proper; therefore, I withdraw my point of clarification, Madam President.

THE PRESIDENT: Thank you.

Commissioner Regalado is recognized.

MR. REGALADO: Madam President.

THE PRESIDENT: Does Commissioner Regalado have further questions?

MR. REGALADO: I will just wind up, Madam President.

THE PRESIDENT: The Gentleman may proceed.

MR. REGALADO: That clarifies the parliamentary situation because my observations, instead of being in the declarative form, would have been in the interrogative form had Commissioner Nollado been present.

THE PRESIDENT: Please proceed.

MR. REGALADO: I have also intended to ask further questions on the effect on the Philippines of the Convention on Territorial Seas, but I will reserve that for another session when the sponsor is present.

Thank you, Madam President.

THE PRESIDENT: Thank you.

Is there anything else, Mr. Floor Leader?

ADJOURNMENT OF SESSION

MR. RAMA: There are some committee meetings being held at ten o'clock, and we invite the public and the young people to go and attend the committee hearings. One of the resource persons, I understand, is the Defense Minister. So, in the meantime, to enable us to attend our committee hearings, I move for the adjournment of the session until Monday at five o'clock in the afternoon.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; and considering that the sponsor of the committee report now on hand is absent, the session is adjourned until Monday at five o'clock in the afternoon.

It was 10:00 a.m.

[*] Appeared after the roll call.

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