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Thursday, August 21, 1986

CALL TO ORDER

At 11 28 a.m., the Vice-President of the Constitutional Commission, the Honorable Ambrosio B. Padilla, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Jose Luis Martin C. Gascon, to wit:

"Panginoong Mapagmahal at Mapagpalaya, turuan Mo po kaming magmahal nang lubus-lubusan sa aming kapwa lalung-lalo na ang mga naghihirap at inaapi; mahalín ang aming mga kapatid na manggagawa, magsasaka, mangingisda, maralitang taga-lungsod, katutubo at maykapansanan.

Turuan Mo po kaming makiisa sa kanilang pagbubungkal ng matigas na lupa. Turuan Mo po kaming makiisa sa kanilang pagtibag ng batuhan. Turuan Mo po kaming sumama sa kanilang kahirapan sa ilalim ng araw at ulan, at magtiis ng hirap at gutom.

Turuan Mo po kaming tumulad sa Iyo, nakahandang hubarin ang banal naming balabal at bumaba nang tulad Mo sa maalikabok na lupa, na tanggapin na maputikan at mapunit ang aming mga damit; at salubungin Ka at sumama sa Iyo sa pagpapawis at pagbabanat ng buto.

At Panginoon, sa tulong ng Iyong pag-ibig at pagmamahal, iligtas Mo kami sa mga mapang-alipin. Ang pagkakapantay-pantay at katarungan ay Iyong pairalin, at mangyari nawa ang loob Mo dito sa lupa at bigyan Mo po kami ng tapang at lakas sa aming pakikibaka pakikibakang laban sa aming pagkamakasarily upang maialay namin nang buong-buo ang aming buhay para sa kapakanan ng sambayanan.

Siya nawa."

ROLL CALL

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

Abubakar, Y. R.

Rosario Braid, F.

Aquino, F. S.

De Castro, C.M.

Bennagen, P. L.

Colayco, J.C.

Concepcion, R. R.

Regalado, F. D.

Davide, H. G.

De los Reyes, R.F.

Foz, V. B.

Rigos, C.A.

Gascon, J. L. M. C.

Rodrigo, F.A.

Guingona, S. V. C.

Sarmiento, R.V.

Jamir, A. M. K.

Suarez, J.E.

Laurel, J.B.

Sumulong, L.M.

Monsod, C.S.

Tadeo, J.S.L.

Nolledo, J.N.

Tan, C.

Ople, B. F.

Tingson, G.J.

Padilla, A.B.

Uka, L.L.

Quesada, M.L.M.

Villegas, B.M.

Rama, N.G.

With 31 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

Alonto, A. D.

Garcia, E. G.

Bacani, T. C.

Lerum, E. R.

Bengzon, J. F. S.

Maambong, R. E.

Bernas, J. G.

Villacorta, W. V.

The following Members were absent:

Azcuna, A. S.

Nieva, M. T. F.

Brocka, L. O.

Romulo, R. J.

Calderon, J. D.

Rosales, D. R.

Natividad, T. C.

President Muñoz Palma was on official mission.

Mr. Treñas was sick.

(At this juncture, the Vice-President relinquished the Chair to Mr. Rodrigo.)

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Rama, 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 with the correction, at the instance of Mr. de los Reyes and confirmed by Mr. Nollado, to delete, on page 863, column 1, paragraph 1, the phrase ANCESTRAL DOMAIN AND in the restatement of Subsection 1 of Section 4.

REFERENCE OF BUSINESS

On motion of Mr. Rama, 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. 595 — Constitutional Commission of 1986

Letter from Mr. Rafael E. Evangelista, transmitting the reaction paper of the Concerned Filipino Parents to the Resolution incorporating in the Constitution an Article on Education, Science, Technology, Sports, Arts and Culture, and requesting consideration of the views and opinions stated therein and their incorporation in the new Constitution

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 596 — Constitutional Commission of 1986

Position paper of the Scientists For Life, Inc., Philippine Chapter, signed by Mr. Rey Garcia of Everlasting Street, Marcelo Green Village, Parañaque, Metro Manila, saying that there is no point of time that can be singled out as the beginning of human life, except the point of fertilization, that at that moment the conceptus is a unique and distinct individual, physically and materially different from the mother

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

Communication No. 597 — Constitutional Commission of 1986

Letter from Mr. Rey S. Hilario of Basilan Street, Quezon City, urging the Constitutional Commission to make a just and proper delineation of State role with respect to the population issue

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 598 — Constitutional Commission of 1986

Letter from the Honorable Justice Raul M. Gonzales, of the Office of the Tanodbayan, (Ombudsman), pointing out a provision in the draft Constitution which prohibits the Ombudsman, after leaving office, from being elected to any office in the Philippines within a certain period of time, saying that this provision directed solely against the Ombudsman may be likened to "class legislation", suggesting therefor that this be reconsidered and rediscussed with the view of deleting the same

TO THE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS

Communication No. 599 — Constitutional Commission of 1986

Letter from Mr. Virgilio Escudero of Zamboanga City, opposing the idea of Muslim autonomy, suggesting therefor that the question be asked in a referendum to be conducted in the affected areas in order to determine the voice of the majority

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 600 — Constitutional Commission of 1986

Letter from Mr. Arturo Y. Mendoza of, Ipil, Zamboanga del Sur, seeking the creation of an autonomous Christian Mindanao

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 601 — Constitutional Commission of 1986

Letter from Mr. Luduvico D. Badoy, O.I.C. of Cotabato City, submitting a position paper regarding the issues and matters affecting local governments, requesting that the recommendations stated therein be considered favorably

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 602 — Constitutional Commission of 1986

Communication from former MP Jeremias U. Montemayor of the Federation of Free Farmers, 41 Highland Drive, Blue Ridge, Quezon City, submitting an article that points out the disastrous consequences of the present draft on agrarian reform and requesting improvements thereof

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 603 — Constitutional Commission of 1986

Letter from Ms. Maria Carmen C. Edaual and five hundred ninety-four other students from various schools, urging the Constitutional Commission to include in the Constitution 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

Communication No. 604 — Constitutional Commission of 1986

Letter from Ms. Josephine C. Reyes, President, Philippine Association of Colleges and Universities (PACU), Room 244, Isabel Building, España St., Manila, submitting for consideration proposed amendments to the Resolution incorporating in the Constitution an Article on Education, Science, Technology, Sports, Arts and Culture, prepared by the Committee on Human Resources

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 605 — Constitutional Commission of 1986

Communication signed by Mr. Felix K. Maramba, Jr., President of the Philippine Association of Flour Millers, Inc. and eighty-nine (89) other representatives of labor, agricultural and business sectors, and cause-oriented groups, presenting some proposals regarding industrialization and economic protectionism and expressing the hope that such proposals would be considered favorably

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

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.

At this juncture, Mr. Rama informed the Chair that President Muñoz Palma had requested deferment of voting on the Article on National Economy and Patrimony to await the presence of other Members of the Commission who were attending the death anniversary ceremonies in honor of the late Senator Benigno S. Aquino, Jr.

Thereafter, he requested that Mr. Ople be recognized for his amendment to add a new Section 8 to the Article on Local Governments.

AMENDMENT OF MR. OPLE JOINTLY WITH MESSRS. BENNAGEN, AZCUNA, RAMA, UKA, ALONTO, ABUBAKAR AND BACANI

Mr. Ople stated that before adjournment of the previous session, the Body was in the process of discussing his proposed amendment, to wit:

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.

He stated that since then several Members have urged him, as chief proponent, to reformulate the amendment to read:

SECTION 8. CONGRESS MAY CREATE AN OFFICE OF TRIBAL COMMUNITIES TO ADVISE THE

PRESIDENT ON POLICIES AND PROBLEMS OF CULTURAL COMMUNITIES.

He stated that he has agonized over the proposed reformulation, having in mind the two and a half million tribal communities, other than those embraced by Muslim Mindanao and the Cordillera autonomous regions, which are scattered all over the country but mostly in Mindanao.

Thereafter, he adverted to a dissertation on customary law and land ownership among tribal Filipinos, specifically tribal communities outside the two autonomous regions, authored by Father Vincent Collins, S. J., Task Force Coordinator in the Diocese of Malaybalay. He informed that there was a workshop held on March 3 to 4, 1986 at the Jesus Calls Retreat House in Philamlife, Quezon City in which the problems of other tribal communities were thoroughly discussed and that a resolution was adopted by the participants thereof, to wit:

Whereas, tribal communities have long suffered from government neglect and discrimination;

Whereas, there is a need for immediate recognition of the right of tribal communities to self-determination, ancestral domain, customary laws, equal protection of the laws and enhancement of human dignity and self-directing cultural development;

Whereas, there is a need for a distinct government body to handle purely non-Muslim tribal affairs, and this refers to two and a half million people;

Whereas, President Corazon Aquino announced during her electoral campaign that her administration will allow the tribal communities to retain their ancestral lands, cultural heritage, customary laws and ancestral domain;

Now, therefore, be it resolved, as it is hereby resolved that a set of policy recommendations be formulated to meet the needs and aspirations of tribal communities;

It is also resolved that an Office of Tribal Communities be created, allocating the necessary funds therefor;

It is further resolved that the attached policy recommendations be favorably considered by the appropriate government body;

And be it resolved finally, that copies of this resolution be widely disseminated among tribal communities to elicit their maximum participation.

Mr. Ople informed that the resolution refers to the Hanonoo of Mindoro Oriental and Occidental; the Ati of Iloilo; Manobo of Agusan del Norte and del Sur, Surigao del Norte and del Sur, Davao del Norte, Davao del Sur, Davao Oriental, Bukidnon and North and South Cotabato; the Bilaans of North and South Cotabato, Davao del Sur and Sultan Kudarat, the Mandaya and Mansaka of Davao del Norte and Davao Oriental; the Tibabaon of Davao del Norte and Agusan del Sur; the Subanon of Zamboanga del Norte, Zamboanga del Sur and Misamis Occidental; the Hagonoon of Misamis Oriental, Bukidnon, Agusan del Norte and Agusan del Sur; as well as other tribes in Luzon including the Mangyans of Mindoro, the Dumagats of Sierra Madre provinces, the Balugas and Aetas of Zambales mountains including those in Capas, Tarlac, Pampanga and others. He noted that a study made by anthropologist Ponciano Bennagen shows that there are about 130 tribal communities all over the country. He observed, however, that the Muslim cultural minorities of Mindanao and the Cordillera people are the most highly organized and developed among these tribal communities, in recognition of which, the Commission saw it fit to grant them autonomous status.

Mr. Ople stated that the proponents are asking for the grant of similar powers of self-government to other tribal communities. He adverted to the Mangyans of Bulalakaw, Mindoro as an example of such a tribal community, stating that 600 Mangyan families have already been incorporated into the existing subdivision of that

municipality and have their own barangay captain who is invited to the meetings of barangay captains. Under the proposal, Mr. Ople explained that Mangyans would not be an autonomous area rising to the same level of legal self-sufficiency as the Cordillera and Muslim Mindanao. He noted that Congress may, without even vesting a juridical entity on the Mangyan settlement, explicitly recognize the right of the Mangyans to their own traditional political system with their own leader. Even without law, he noted, the Mangyans have a recognized leadership and customary laws as well as their own modes of settling community disputes. He stated that there are as many conditions and levels of development as there may be tribal communities and that in many cases only a few hundred families would be involved.

Moreover, Mr. Ople also pointed to the case of the Baluga tribe in Pampanga many of whom are scavengers in the target range of the Clark Air Base of the U.S. Air Force who, although not organized according to native law and tradition, are part of the existing political subdivision in Angeles City. He stated that Congress may also enact a law recognizing the customary laws of just 60 families of the Baluga tribe in the outskirts of Angeles City as one category.

The Office of Tribal Communities, Mr. Ople said, as proposed in the amendment can codify all custom laws just like the government has done in the case of tribal customs and traditions of the Muslims in Mindanao which are embodied in the Code of Muslim Law. In this way, he reasoned, the native heritage of the various tribes will not be lost but will be given equity and justice including those tribes who came even before the Malays.

He stated that after granting autonomy to the more highly organized and developed tribes of Mindanao and the Cordilleras, the other tribal communities should not be put in a constitutional limbo. He noted that what is being suggested is that Congress be given the authority to extend various forms of political, cultural and legal accommodation to all tribes who pose no harm to the stability and integrity of the country. He stressed the Committee's stand that it may not be able to accommodate the amendment and that its suggestion that the amendment provide for the creation of an office and eliminate the principle of granting certain forms of autonomy is vague.

INQUIRY OF MR DAVIDE

Upon inquiry of Mr. Davide whether he did not accept the Committee's compromise proposal, Mr. Ople stated that he would rather lose the amendment on the floor than reduce the entitlement to recognition of tribal communities to the level of the creation of a mere office.

As to whether he would insist on his original proposal, Mr. Ople stressed that the permanent commission could be the Office of Tribal Communities.

Upon inquiry, Mr. Ople affirmed that the phrase "within the framework of existing territorial and political subdivisions" would refer to cities, provinces, municipalities and barangays.

Also upon inquiry, he affirmed that since it is within the framework of these political and territorial subdivisions, autonomy can be given to a cultural community within a barrio like a sitio of 20 families.

As to whether a sitio which has two families belonging to a cultural community can be constituted as a local government unit for this purpose, Mr. Ople answered that such is most unlikely. By way of an example, Mr. Ople mentioned that the 50 Dumagat families in Norzagaray, Bulacan, who live by harvesting rattan and selling them in the lowlands, can form their own sitio and their tribal communities under their own customary laws and can be recognized without disturbing the integrity of the jurisdiction of the Mayor of Norzagaray and the Governor of Bulacan.

On Mr. Davide's contention that there was the Commission on National Integration and later on a body attending to the welfare and affairs of the tribal communities, Mr. Ople stated that he would reject the philosophy of integration.

Mr. Davide pointed out that under the proposal, there would be a permanent commission which would serve as an advisory body to the President so that the existing mechanism of the Executive branch of government attending to the needs of tribal communities would be constitutionalized, to which Mr. Ople replied that it is merely an office of tribal communities as suggested by the representatives of all these non-Muslim tribes which met recently.

At this juncture, Mr. Bennagen informed that the proposal to create an office, ministry or commission for tribal communities was proposed by non-Muslims who wanted to have a separate ministry from the Office of Muslim Affairs because budgetary and personnel limitations militate against equitable treatment of other tribal communities.

Mr. Davide pointed out that the matter of creating a separate office for non-Muslim tribal communities really pertains to the Executive and it is not necessary to constitutionally mandate Congress or for Congress to enact a law to create such office. He opined that, perhaps, what the other tribal communities need is merely a separate office to take care exclusively of their affairs, interests and welfare, and not an extension of the concept of autonomy.

On Mr. Abubakar's query relative to the proposal to grant local autonomy to other tribal communities, Mr. Ople explained that there must be recognition of 1) the right to their ancestral domain; 2) customary laws; and 3) the modes of dispute settlement under customary law.

Mr. Ople added that the proposed Section would make it possible for Congress to grant these non-Muslim tribes autonomy without having to amend the Constitution.

Thereafter, Mr. Abubakar manifested his support for Mr. Ople's proposal to grant Congress the power to give autonomy to other tribes and for the creation of a separate and independent office for these tribes.

On Mr. Tingson's query whether the creation of a separate office for non-Muslim tribes would not in effect be counter-productive in view of the fact that some member of tribes, like the Ati tribes in the Kanlaon area, have assimilated and integrated themselves into the mainstream of society, Mr. Ople explained that there would be no incompatibility between the right of these indigenous tribes to their ancestral domains and recognition of their tribal laws with the other objective of giving them unimpeded access to economic and career opportunities outside their tribes.

On the query whether the provision would not result in interminable cases of request for autonomy from other sectors, Mr. Ople stressed that it would not, because the reason of the Commission in granting autonomy to Muslim Mindanao and the Cordilleras is the recognition that they do not belong to the dominant national community and that they should enjoy a certain measure of self-government so that they would flourish politically, economically and culturally. He opined that perhaps time would come when they would reconsider joining the national mainstream after they have attained parity and equality with the rest of the nation. He added that those who belong to smaller tribes should not be omitted but should also be given consideration in the proposed Article on Local Government.

On how the members of these smaller tribal communities would comprehend the previous regime's slogan of Isang Bansa, Isang Diwa, Mr. Ople explained that a Filipino Muslim or a tribal member from the Cordilleras should not be regarded as having an inferior sense of nationalism and patriotism. He explained that the slogan did not intend to reduce all Filipinos into a uniform mass but that all cultures should be blended to enrich the national

culture.

On Mr. Suarez' query whether Mr. Ople is agonizing over his concern as a constitution maker with his personal concern for the members of smaller tribes, Mr. Ople stated that he had already harmonized the conflicting claims in the proposed Section.

On whether he is prepared to eliminate the first sentence of his proposal and concentrate on the second sentence, Mr. Ople stressed that the proposed Section embodies the minimum approach to social justice for tribal minorities other than those in Muslim Mindanao and the Cordilleras and that he was supporting the entire section as proposed.

At this juncture, the Chair sought clarification as to the proposed amendment distributed to the Body with Messrs. Ople, Bennagen, Azcuna, Rama, Uka, Alonto, Abubakar and Bacani as the proponents which states "Congress may create an office of tribal communities to advise the President on policy problems affecting cultural minorities" eliminating the first sentence of Mr. Ople's original proposed amendment.

Replying thereto, Mr. Ople clarified that the proposal was in response to the suggestion of other Members who expressed preference for the creation of an office for tribal communities.

Mr. Ople manifested that consistent with his reply to Mr. Suarez' query, he would adhere to the original proposal.

SUSPENSION OF SESSION

Thereupon, the Chair suspended the session.

It was 12:23 p.m.

RESUMPTION OF SESSION

At 12:29 p.m., the session was resumed.

MANIFESTATION OF MR SUAREZ

Upon resumption of session, Mr. Suarez manifested that it was agreed during the suspension that the entire Section 9 as proposed by Mr. Ople be submitted to a vote, and if voted down, the Body would thereafter vote on the additional sentence also proposed by Mr. Ople, which reads: CONGRESS MAY CREATE AN OFFICE OF TRIBAL COMMUNITIES TO ADVISE THE PRESIDENT ON POLICY PROBLEMS AFFECTING CULTURAL MINORITIES.

VOTING ON THE PROPOSED SECTION 9

On request of Mr. Sarmiento, Mr. Ople restated his proposed Section 9 under the subheading "All Other Cultural Communities", to wit:

SECTION 9. 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. CONGRESS MAY CREATE AN OFFICE OF TRIBAL COMMUNITIES TO ADVISE THE PRESIDENT ON POLICIES AFFECTING CULTURAL MINORITIES.

Submitted to a vote and with 12 Members voting in favor and 20 against, the proposed amendment was lost.

MANIFESTATION OF MR. BENNAGEN

Mr. Bennagen manifested that the result of the voting on Mr. Ople's amendment should not be misunderstood as neglecting the other cultural communities. He pointed out that there would be a proposed Section in the Article on Declaration of Principles for the cultural communities, including those from the Cordilleras and Mindanao.

He then suggested that the same amendment of Mr. Ople be considered in the Article on Declaration of Principles to extend recognition to other cultural communities not within the autonomous regions. He added, however, that a provision concerning these cultural communities was included in the Article on National Economy and Patrimony. He also pointed out that Mr. Sarmiento would be introducing similar provisions in the General Provisions.

At this juncture, Mr. Ople stated that his co-authors of the amendment that was defeated were Messrs. Bennagen, Azcuna, Rama, Uka, Alonto, Abubakar, Bacani, Suarez and Guingona.

MANIFESTATION OF MR. TINGSON

In connection with the proposed Section mentioned by Mr. Bennagen to be included in the Article on Declaration of Principles, Mr. Tingson stated that it would be Section 15, which shall read:

SECTION 16. THE STATE SHALL RECOGNIZE AND RESPECT THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES TO CHOOSE THEIR OWN PATH OF DEVELOPMENT ACCORDING TO THEIR POLITICAL, ECONOMIC AND CULTURAL CHARACTERISTICS WITHIN THE FRAMEWORK OF NATIONAL UNITY. THE STATE SHALL ERADICATE ALL FORMS OF DISCRIMINATION AGAINST INDIGENOUS CULTURAL COMMUNITIES AND SHALL PROMOTE MUTUAL RESPECT AND UNDERSTANDING BETWEEN THEM AND THE REST OF THE FILIPINO PEOPLE.

PROPOSED AMENDMENT OF MR. SUAREZ

Thereafter, with the permission of Mr. Ople, Mr. Suarez proposed that the second sentence of Mr. Ople's proposed amendment be Section 9, to read:

SECTION 9. CONGRESS MAY CREATE AN OFFICE OF TRIBAL COMMUNITIES TO ADVISE THE PRESIDENT ON POLICIES AFFECTING CULTURAL MINORITIES.

Upon suggestion of Mr. Sarmiento, Mr. Suarez agreed to transpose his proposal to the General Provisions if it is approved by the Body.

MR. BENNAGEN'S PROPOSED AMENDMENT

TO THE AMENDMENT

Thereupon, Mr. Bennagen proposed to amend the amendment of Mr. Suarez, so that the Section would read:

SECTION 9. CONGRESS MAY CREATE AN OFFICE OF TRIBAL COMMUNITIES COMPOSED OF MEMBERS FROM THE INDIGENOUS COMMUNITIES APPOINTED BY THE PRESIDENT FROM A LIST PREPARED BY THE INDIGENOUS COMMUNITIES THEMSELVES.

Mr. Bennagen explained that there would be enough people from the indigenous communities, professionals and non-professionals, who are qualified to compose said advisory body. He pointed out that it is the desire of the cultural communities that they compose the advisory body in line with the spirit of full equality and non-discrimination.

In reply, Mr. Suarez stated that the contemplation is that the Office of Tribal Communities would only be an advisory body, and he would rather leave its composition to the President.

In view thereof, Mr. Suarez did not accept the amendment to his amendment.

POINT OF ORDER

At this juncture, Mr. Bengzon raised a point of order on the ground that the only issue was whether to transpose the proposed amendment to the Article on the General Provisions, therefore, there should be no discussion on its merits.

Thereupon, Mr. Bengzon moved that the concept of the proposed amendment of Mr. Suarez be considered in and transposed to the Article on General Provisions.

Mr. Ople stated that based on Mr. Suarez' suggestion, it was his understanding that the Body would be voting on the merits of the second sentence of the rejected amendment without prejudice to its transposition to the proposed Article on General Provisions, in reply to which Mr. Bengzon stated that he made a suggestion, to which Mr. Suarez agreed, that the merits of the amendment would be discussed when the Body would take up the proposed Article on General Provisions.

SUSPENSION OF SESSION

Upon request of Mr. Suarez, the Chair suspended the session.

It was 12:41 p.m.

RESUMPTION OF SESSION

At 12:43 p.m., the session was resumed.

REMARKS OF MR. BENGZON

Upon resumption of session, Mr. Bengzon stated that after a conference with the Members concerned, it had been agreed that Mr. Suarez' amendment would be referred to the Committee on General Provisions with urgent favorable recommendation.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed as the last Section the following:

SECTION ____ LOCAL GOVERNMENTS AND AUTONOMOUS REGIONS SHALL STRICTLY OBSERVE THE RULE ON TAXATION PRESCRIBED IN PARAGRAPH (1) OF SECTION 29 ON THE ARTICLE ON LEGISLATIVE POWER.

Mr. Nollado did not accept the proposed amendment of Mr. Davide.

In explaining his proposed amendment, Mr. Davide read Section 29 of the proposed Article on Legislative Power, to wit: "The rule of taxation shall be uniform and equitable." He pointed out that if said section would not be made applicable to the local governments and the autonomous regions, these units could provide for taxation which might not be uniform or equitable.

Replying thereto, Mr. Nollado adverted to the previous discussion where it was emphasized that it is an inherent limitation that all taxes, fees and charges shall be uniform, to which Mr. Davide responded by stating that it is for

this reason that it is necessary to incorporate the proposal in order that the rule applicable to Congress would also be applicable to the local government units and the autonomous regions.

On whether it would suffice to express the intent of the Committee as well as of the Body that all taxes imposed by local governments be uniform in accordance with the rule of taxation in the proposed Article on the Legislative, Mr. Davide stated that it might suffice if that is the intent of the entire Commission, to which Mr. Nollado opined that it is indeed the thinking of the entire Commission.

Mr. Davide suggested that the matter be submitted to a vote.

Mr. Nollado clarified that the rule provides that taxes shall be uniform within each governmental unit, to which Mr. Davide replied that this is precisely the reason why the rule on taxation should apply within each particular jurisdiction.

Mr. Nollado stressed that taxation has a settled limitation in every republican or democratic government.

Ms. Aquino maintained that Mr. Davide's proposed amendment is a surplusage because it has been conceded that the legislative authority being vested in the autonomous regions is just a derivative power coming from the legislative authority of Congress, in reply to which Mr. Davide stated that he would not object if his proposal is not incorporated, provided that that is the sense of the Commission and that is how it should be interpreted when said rule is made applicable to local government units and autonomous regions.

Mr. Maambong read the first part of Section 4 which, he stated, constitutes a form of limitation on the powers of the autonomous regions, to which Mr. Davide replied that Section 4 applies only to autonomous regions and not to local government units.

Mr. Bernas stated that the proposed amendment is not really necessary because the sense of the proposal is sufficiently covered by the equal protection clause of the Bill of Rights which governs all local governments.

Considering that the interpretations were very clear that the rule on taxation would be followed by the local governments and the autonomous regions, Mr. Davide withdrew his proposed amendment.

REMARKS OF MR. OPLE

Relative to Mr. Davide's proposed amendment, Mr. Ople recalled that during the previous interpellation, the Chairman of the Committee agreed to entertain an amendment that would make this uniform taxation standard for local governments explicit in the Article and earlier in the Article on the Legislative he proposed an amendment on the matter but he was prevailed upon to withdraw said amendment when the Committee suggested its relocation to the Article on Local Government.

Mr. Ople expressed the view that the withdrawal of Mr. Davide's proposed amendment was unseasonable and unwarranted considering that there has been a lot of confusion in local governments concerning the uniformity rule as indicated by cases filed before the Supreme Court. In the interest of eliminating this confusion, he then suggested that it be stated in the form of a brief sentence in the proposed Article on Local Government.

Replying thereto, Mr. Nollado admitted that there was indeed a promise of the Committee to entertain an amendment to that effect on condition that Mr. Padilla's amendment would not be approved and this consisted of the insertion of the words "subject to limitations". He stated that the Committee had to renege on its promise because the Body approved Mr. Padilla's amendment. He further stated that under, PD No. 231, the Local Tax Code, as amended by PD No. 426, there are provisions requiring local government units to observe the rule on uniformity of taxation and that he was not aware of serious cases violating this rule.

TERMINATION OF THE PERIOD OF AMENDMENTS

On motion of Mr. Rama, there being no objection, the Body closed the period of amendments.

MOTION OF MR. RAMA

Mr. Rama moved that the Body vote, on Second Reading, on the whole Article on Local Government unless the Chairman would ask for clean copies.

Mr. Nollado did not object to the motion considering that all the provisions had been read.

Mr. Sarmiento objected to the motion on the ground that there might be errors, to which Mr. Nollado replied that in the past, even after the Second Reading, the Body still made some corrections before it proceeded to Third Reading.

In view of Mr. Nollado's assurance that it could still be subject to corrections, Mr. Sarmiento withdrew his objection.

In reply to Mr. Maambong's query, Mr. Nollado affirmed that in the presentation of the Article on Local Government, the Sections therein would be numbered consecutively.

INQUIRY OF MR. BERNAS

Adverting to the previous Journals where he noticed two conflicting answers, Mr. Bernas sought clarification whether it is the intent of the Body to allow the creation of two autonomous regions. Mr. Nollado, in reply thereto, assured that the Committee adhered to the decision of the Body that only two autonomous regions shall be recognized, namely, Muslim Mindanao and the Cordilleras and should there be an aggroupment that would seek autonomy in the same manner as these two regions, that aggroupment should seek Constitutional amendment.

On the matter of representation of the metropolitan units in the House of Representatives, Mr. Nollado stated that the matter would be decided by the Committee on the Legislative.

INQUIRY OF MR. GASCON

Mr. Gascon recalled that during the interpellations, it was mentioned that there are presently two existing autonomous regions in Muslim Mindanao, to which Mr. Nollado replied that Muslim Mindanao should be taken collectively. He explained that the Cordilleras would be one autonomous region and another one for the entire Muslim Mindanao.

Mr. Ople confirmed that there should be one for Muslim Mindanao and in the case of the existing two autonomous regions, he pointed out that there is the Lupong Tagapagpaganap ng Pook from where authority for the two autonomous regions emanates, so that it could be classified as one autonomous region.

Mr. Bernas sought clarification whether there would be one or two possible autonomous regions in Mindanao.

Mr. Nollado disclosed that the Committee was divided on that issue, but he would suggest that Congress be given discretion to determine how many autonomous regions there would be in Muslim Mindanao.

Mr. Ople, however, urged that the Committee adopt the position that there should be only one autonomous region for Mindanao, in reply to which Mr. Abubakar informed that there is already an existing autonomous region for Southern Mindanao composed of the provinces of Tawi-Tawi, Sulu, Basilan, Zamboanga del Norte, Zamboanga del Sur and Zamboanga City.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Ople; the Chair suspended the session.

It was 1:01 p.m.

RESUMPTION OF SESSION

At 1:05 p.m., the session was resumed.

REPLY OF MR. NOLLEDO

Upon resumption of session, in reply to the query of Mr. Bernas, Mr. Nollado stated that the intent of the Article on Local Government is that there should only be one autonomous region for Muslim Mindanao.

APPROVAL ON SECOND READING OF THE ARTICLE ON LOCAL GOVERNMENT

Thereafter, Mr. Rama moved for the approval, on Second Reading, of the Article on Local Government, subject to corrections on the clean copy to be presented later.

Submitted to a vote, and with 30 Members voting in favor, none against, and one abstention, the Body approved, on Second Reading, the Article on Local Government as amended, subject to corrections on the clean copy.

MANIFESTATION OF MR. BENGZON

Thereafter, Mr. Bengzon manifested that the Body would resume consideration of the Article on National Economy and Patrimony in the next session; and also vote, on Third Reading, on the Articles on the Executive and on Social Justice should there be sufficient number of Members present for the purpose.

ADJOURNMENT OF SESSION

On motion of Mr. Rama, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of the following day.

It was 1:08 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 22, 1986

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