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Tuesday, August 19, 1986

OPENING OF SESSION

At 9:52 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 Alberto M.K. Jamir.

Everybody remained standing for the Prayer.

PRAYER

MR. JAMIR: Let us pray.

Merciful God, we approach the end of our pilgrimage in search of a constitution which will embody the highest ideals and aspirations of our people with increasing unease. While we, all of us, are sincere in our efforts to apply the proper solutions to the pressing problems of our country, we find ourselves divided in the manner of solving them. There are those amongst us who would channel our country's course along lines that are in keeping with and respectful of the rights of others. There are those, however, who prefer a different path by dangling before our people's eyes a hope for economic emancipation without regard to its effects upon others.

In such a time as this, we implore Thy divine guidance that we may avoid creating an unattainable Utopia which, in the end, will only disillusion our people and thereby increase their discontentment. We beg of Thee to show us the way so that no seed may find a place in the Constitution we are making which may one day be the cause of a fratricidal class struggle among our countrymen, so that this beloved land may not be drenched with the blood and tears of its own children.

It is inevitable that one of these precepts would fail to find acceptance. Should this come to pass, show us, O Lord, how to bear the resulting disappointment in good grace. Keep us together in spite of our differences in outlook, so that we can continue to fashion a constitution which will come from Thy hands, through ours, that our people may have a vibrant and living charter to guide them in their journey through peace and progress throughout the ages. Amen.

ROLL CALL

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

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present[*] Nieva Present

Aquino Present Nollado Present

Azcuna Present[*] Ople Present[*]

Bacani Present[*] Padilla Present

Bengzon Present[*] Quesada Present

Bennagen Present[*] Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present

Brocka Absent Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion Present Sarmiento Present

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present Tadeo Present

Gascon Absent Tan Present

Guingona Present[*] Tingson Present

Jamir Present Treñas Absent

Laurel Present Uka Present

Lerum Present[*] Villacorta Present[*]

Maambong Present[*] Villegas Present

Monsod Present

The President is present.

The roll call shows 33 Members responded to the call.

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

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we dispense with the reading of the Journal of yesterday's session.

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

APPROVAL OF JOURNAL

MR. CALDERON: Madam President, I move that we approve the Journal of yesterday's session.

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

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

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

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications and Committee Report, the President making the corresponding references:

COMMUNICATIONS

Communication from Mr. Herminio H. Cacanindin, Provincial Secretary, transmitting Resolution No. 70 of the Sangguniang Panlalawigan of La Union, declaring/embodying the opposition of the Province of La Union against the storage of nuclear armaments in the Philippines.

(Communication No. 576 — Constitutional Commission of 1986)

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

Letter from Ms. Joanna K. Cariño of Bontoc, Mountain Province, transmitting a resolution signed by one thousand one hundred eighty-nine (1,189) Tinggians and Bontoks of the Cordillera, calling for an autonomous region and respect for ancestral land rights, among others.

(Communication No. 577 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Simeon R. Ventura urging the Constitutional Commission to consider the following issues: (a) abolition of the CHDF; (b) agrarian reform; (c) allocation of seats in the bicameral legislative body; (d) autonomy for the Cordilleras and our Muslim brothers; and (e) American military bases.

(Communication No. 578 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Dr. Victor A. de la Cruz, Filamer Christian College, Roxas City, and three others, upholding the inviolability of the separation of the Church and State.

(Communication No. 579 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Ms. Phyllis Zaballero and Ms. Maria Isabel Ongpin of the Alliance of Women Towards Action and

Reform (AWARE), proposing inclusion in the Constitution the following provision: "The State recognizes the right of women to equal treatment with men in all spheres of civil, political, economic, social and cultural life."

(Communication No. 580 — Constitutional Commission of 1986)

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

Letter from Minister Candu I. Muarip of the Ministry of Muslim Affairs and Cultural Communities, transmitting two resolutions of the Zamboanga del Norte Muslim Association, to wit: Resolution No. 02-86 urging inclusion of a provision in the Constitution recognizing the existence and establishment of the sultanate as a form of sociocultural and political organization in Regions IX and XII; and Resolution No. 04-86 urging inclusion in the Constitution of a provision recognizing Arabic as one of the basic Filipino languages in Southern Philippines and authorizing and encouraging the teaching thereof in both public and private schools and the same to be regulated by the national government.

(Communication No. 581 — Constitutional Commission of 1986)

To the Steering Committee.

COMMITTEE REPORT

Committee Report No. 39 on Proposed Resolution No. 542, prepared jointly by the Committee on Social Justice and Committee on Human Resources, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON
FAMILY RIGHTS,

recommending its approval in substitution of Proposed Resolution No. 272.

Sponsored by Hon. Nieva, Villacorta, Gascon, Uka, Tadeo, Garcia, Lerum, Tan, Bennagen, Bengzon, Jr., Rodrigo, Guingona, Rigos, Rosario Braid and Treñas.

To the Steering Committee.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 470

(Article on Local Governments)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we continue the consideration of Proposed Resolution No. 470 on the Article on Local Governments.

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

May we request the honorable Chairman and members of the Committee on Local Governments to please occupy the front table.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: For purposes of clarification for the record, Proposed Resolution No. 470 is a consolidated report coming from Proposed Resolution Nos. 470 and 511 of the Committee on Local Governments.

In view of the fact that we have some Muslim visitors from Mindanao who have been here for days to listen to the deliberation on the autonomous regions and to know the fate of this Article, I move that we defer consideration of the first sections of the Article on Local Governments, and move over to the section under the title "Autonomous Regions."

THE PRESIDENT: What will be deferred actually is only the consideration of about two or three provisions of Part 1.

MR. RAMA: Two or three provisions but it will take sometime, Madam President.

THE PRESIDENT: What does the Chairman say?

MR. NOLLEDO: As Chairman of the Committee, I would like the Floor Leader to know that there are only very few provisions left on the first part of our report. Besides, Commissioners Alonto, Abubakar and Bennagen who are highly competent on several aspects of the second part of our report are not yet here. So I object to the motion.

MR. RAMA: For that reason, Madam President, I withdraw the motion.

THE PRESIDENT: So we will proceed with the continuation of the consideration of Part 1 of the report. Is the Chairman ready with it?

MR. NOLLEDO: Yes, Madam President.

THE PRESIDENT: Yesterday we were considering a proposed amendment of Commissioner Davide consolidating certain sections. Is that correct?

MR. DAVIDE: Yes. Thank you, Madam President.

MR. NOLLEDO: Madam President, Commissioner Padilla would like to add the words "AND LIMITATIONS" to "guidelines."

MR. PADILLA: Yes, Madam President, I made the observation that in the previous Constitutions, the word "limitations" is used. However, the word "limitations" was substituted in the committee report by the word "guidelines." I suggested that we add after the word "guidelines" the words AND LIMITATIONS. I stated that while we agree to give political subdivisions local autonomy and, perhaps, increase the same, we must be careful that the power to tax by local governments may not be without limitation because it is said that the power to tax may include the power to destroy. Local autonomy is intended for the purpose of giving local subdivisions more authority to promote general welfare and to solve their peculiar problems by allowing them discretion and even jurisdiction to adopt measures for the common good within their territorial jurisdictions, but an unlimited jurisdiction or unlimited power of taxation without limitations by Congress may be dangerous. It may not foment or promote the common weal. It may be resorted to by some local executives as an arbitrary means to exact more contributions by way of levies, taxes, fees, and others to the detriment of the general public. Hence, I have no objection to the word "guidelines" but I would prefer that we retain the word LIMITATIONS also.

MR. NOLLEDO: Madam President, the Committee deeply regrets that it cannot accept the amendment of the honorable Vice-President for the following reasons:

By adding "LIMITATIONS" to "guidelines," we will unduly restrict the local power to tax. In yesterday's session, I manifested before the honorable Commission that this recommended provision of the Committee is in favorable reaction to the unanimous request of the members of the League of Governors and City Mayors who appointed

Governor Melanio Singson as their spokesman, asking the Committee to please delete the word "LIMITATIONS" in view of the many limitations set forth in P.D. No. 231, the Local Tax Code, which practically negated the power of local governments to tax. So I think I am echoing the urgent request of the governors and the city mayors before this honorable Commission.

Madam President, that dictum of 1803 of Chief Justice Marshall that the power to tax includes the power to destroy is misinterpreted by some lawyers. As far as I am concerned and as a professor of taxation, it simply means that as long as the tax law is legal, then the taxpayer cannot evade the payment of taxes on the ground that payment thereof will render his business inutile or will result in his impoverishment.

In one recent case, the Supreme Court of the Philippines, speaking through Chief Justice Fernando, said that the dictum of Chief Justice Marshall was practically overruled by Justice Frankfurter in the case of *Graves v. New York*, 306, US 466. That remark of Chief Justice Marshall was called by Justice Frankfurter as an unfortunate remark characterized as a flourish of rhetoric attributed to the intellectual passion of the times, allowing the free use of absolutes. This is not merely to emphasize that it is not and there cannot be such a constitutional mandate. Justice Frankfurter could rightfully conclude the web of unreality spun from Marshall's famous dictum which was brushed away by one stroke of Mr. Justice Holmes' pen that "the power to tax is not the power to destroy while this Court sits."

And so, Madam President, I do not believe that if we just put "guidelines" there, the local executives can impose taxes that are unnecessary or beyond the capacity of the taxpayer to pay because there are settled limitations recognized in all republican governments that the power to tax shall be subject to certain conditions; namely, that the tax must be for a public purpose; that it must be uniform within a locality; that it must not infringe upon accepted national economic guidelines; and that it must not be confiscatory. Those principles are deeply imbedded in every constitutional government.

And so, I plead to the Members of the Commission to please hear the plea of the governors and the city mayors who are unanimous in deleting the word "LIMITATIONS" and instead use the word "guidelines."

Thank you, Madam President.

MR. OPLE: Madam President.

MR. PADILLA: Madam President.

MR. OPLE: Will Commissioner Padilla yield to a question?

MR. PADILLA: I was going to make some remarks, but I will yield.

MR. OPLE: Thank you, Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: The power of taxation under a rule of law also brings with it certain principles that may not be denied, including the principle of taxation for a public purpose and uniformity of standards.

When Commissioner Padilla proposes the use of "LIMITATIONS" in addition to "guidelines," is he implying that it would more clearly guarantee that these principles of taxation are observed?

MR. PADILLA: We have a rule in the 1935 Constitution, Section 22 (1) thereof, that "the rule of taxation shall be uniform," and this same principle was followed in Section 17 (1) of the 1973 Constitution with the addition: "and equitable." In other words, it is "uniform and equitable." The latter section also states about adopting a progressive system of taxation. This is the power of the legislative department for national taxes. It is natural for the

executives of local governments, governors and mayors to claim that they exercise the power of taxation that is really delegated to them by the Congress and the Constitution. If this power of taxation by the local units is in accordance with this standard of being "uniform and equitable" and even progressive, then there would be no problem. But when local executives are given, through their municipal councils or provincial boards, the power of taxation without limitations, that means should they disregard this basic principle not only of being uniform and equitable but also of being progressive, then there is a danger that local units will not only overtax the people but even duplicate many national internal revenue taxes. And that will be a burden to the people.

MR. OPLE: Will the Committee object to spelling out these same principles of uniformity, equitable and progressive standards in an appropriate place in the Article on Local Governments? I remember that yesterday the Chairman of the Committee, Commissioner Nollado, said that he could entertain an amendment which would make these rules explicit to modify the word "guidelines" in lieu of "LIMITATIONS." Does Commissioner Nollado confirm this?

MR. NOLLEDO: I have no objection if the amendments are presented to us.

MR. OPLE: Thank you, Madam President.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I just address a few questions to the Committee?

MR. NOLLEDO: Gladly.

FR. BERNAS: I understand the concern of Commissioner Padilla, and at the same time, however, I appreciate the need for making use of the word "guidelines" in order to give real taxation autonomy to the local government. But would it be possible for the Committee to specify areas of taxation where Congress can only give guidelines and areas of taxation where Congress may impose limitations? Would that be possible?

MR. NOLLEDO: That is possible. For example, in the case of some businesses, taxes are imposed by the National Internal Revenue Code. Local governments may impose the same, subject to limitations set forth by law because there will be two taxing powers in that case. But there are areas where local governments have exclusive authority, like the imposition of license fees where they may be subject merely to guidelines.

FR. BERNAS: Would it be too much to ask the Committee to specify areas where only guidelines will be required?

MR. NOLLEDO: I would say it is really too much for the Committee to do that because of the many technicalities involved in taxation. If we do that, we might unwittingly put undue limitations upon the local power to tax. So as far as I am concerned, I would stick to the original proposal of the Committee. Guidelines may constitute also some reasonable limitations.

FR. BERNAS: Thank you.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Regulatory fees which will pay for the cost of public services are perfectly in order. But there are times when local governments would impose a repetition of the real estate brokers tax already provided in the National Internal Revenue Code. So there may be duplications. The real estate tax is mainly a local tax and it

provides for certain rates of taxation based on assessments. Most of these accrue to the local government as a local tax. But if there is no limitation, say, the Provincial Board or the City Council of Manila or Quezon City would impose an additional one percent tax, then that is double taxation. And increased taxation would be an additional burden on real estate owners and on the people.

MR. NOLLEDO: To abbreviate the proceedings, will the Vice-President and Commissioner Ople be amenable if I recommend the term REASONABLE LIMITATIONS and then delete the word "guidelines"?

MR. PADILLA: The term "REASONABLE LIMITATIONS" would be better than just "guidelines" because the limitations must really be reasonable.

MR. NOLLEDO: Instead of setting forth also the set of limitations which are recognized in every republican form of government and to cut short our discussion on that, the Committee might as well accept the amendment of the Vice-President.

MR. OPLE: Provided it is understood that all these limitations and the taxation power of local governments imposed under existing decrees are not thereby perpetuated.

MR. NOLLEDO: The undue limitations set forth specifically under P.D. 231 are not perpetuated.

MR. OPLE: There is a long enumeration of limitations there.

MR. NOLLEDO: Yes, the Committee agrees.

MR. OPLE: Thank you.

MR. PADILLA: As a matter of fact, when I proposed this, I was basing it on the previous constitutional provisions. I had no reference to P.D. 231 because I am one of those who do not believe in recognizing, much less legalizing or validating and much less constitutionalizing the unilateral presidential decrees of the past regime. I have made my position very clear on that point.

MR. NOLLEDO: Madam President, the amendment of Commissioner Padilla consists of deleting the word "guidelines" on line 23, page 2 of Proposed Resolution No. 470, and in lieu thereof, substitute the words REASONABLE LIMITATIONS.

MR. PADILLA: Madam President, I have no objection to the word "guidelines." We can retain the word "guidelines." It should read: ". . . guidelines and REASONABLE LIMITATIONS."

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: By saying "REASONABLE LIMITATIONS," it would seem to me that we are not adding anything because the expectation would be that limitations will be reasonable. So, I do not see this amendment as strengthening the taxing autonomy of local governments especially since the presumption always is that Congress acts with reason. It would seem to me that by accepting such phrase, in effect, we remove the taxing autonomy.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I am unable to appreciate the position of the proponent and the Committee in accepting the amendment. It is axiomatic in law and jurisprudence; in fact, it is fundamental in all democratic governments that taxation is subject to limitations: First, taxation is always subject to the requirement of a public purpose; second, the requirement of jurisdiction; and third, the requirement of uniformity. These are already safety valves which are inherent limitations to the power of taxation. The inclusion of the amendment, as proposed by the proponent,

would only muddle the issues in the context of the position of Commissioner Bernas.

MR. NOLLEDO: Madam President.

MR. PADILLA: Madam President.

MR. NOLLEDO: It seems that because of the objection of Commissioner Bernas, the issue now is which shall we use? Shall it be "guidelines" or REASONABLE LIMITATIONS?

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is the original proponent and, therefore, it is up to Commissioner Padilla whether or not to accept the proposed amendment of Commissioner Ople.

MR. PADILLA: I would like to say that Section 5 of the 1973 Constitution provides:

Each local government unit shall have the power to create its own sources of revenue and to levy taxes subject to limitations as may be provided by law.

I was not the author of the adjective "REASONABLE" but I would accept that word. That does not mean limitations on the power of Congress. It is more a limitation on the power of the local units to tax.

So, there was a significant relevance when the former Constitutions provided for limitations. I hear now that some say it is nonsense to include LIMITATIONS because it is understood that these are reasonable limitations; but, Madam President, when the word "limitations" which existed in the former Constitutions is deleted and it is substituted with another word "guidelines," the implication may be that there will be no more limitations on the power of the local units to tax which may be prescribed by Congress. That is the sad significant implication because when an existing word that is meaningful is eliminated, then it might give the wrong impression that Congress may only provide for guidelines but never for limitations on the local power to tax.

FR. BERNAS: Madam President, the limitations are already in the constitutional requirements just like uniformity of taxation and so forth. And aside from that, there is also the limitation of political dynamics. The legislative authorities of local governments which will pass these laws will be subject to the pressures of their locality. That, by itself, will also act as a limitation.

THE PRESIDENT: Are we ready to vote now?

MR. PADILLA: May I just say one word. The limitations in the legislative department are limitations on the power of Congress. Why are we not going to apply the same limitations to a lower political unit?

MR. SARMIENTO: Madam President.

THE PRESIDENT: The proposed amendment of Commissioner Padilla is very clear on line 23, page 2 of the proposed Section 11 of the committee report which is to change the word "guidelines" to "REASONABLE LIMITATIONS."

MR. PADILLA: It is not exactly to change.

My amendment should read: "... subject to such guidelines AND LIMITATIONS."

THE PRESIDENT: Does the Vice-President insist on the phrase "REASONABLE LIMITATIONS"?

MR. PADILLA: The word "REASONABLE" may or may not be included. I am more insistent that my amendment should read: "... such guidelines AND LIMITATIONS as Congress may provide."

MR. NOLLEDO: The Committee withdraws its acceptance of the amendment because the word REASONABLE is not included.

VOTING

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

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

The results show 22 votes in favor, 12 against and no abstention; the amendment is approved.

MR. SARMIENTO: Madam President, I ask that Commissioner Suarez be recognized to introduce an amendment.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

My proposal is very simple. I would like to submit a motion to delete the last sentence in Section 8, appearing on lines 24 to 26, which reads: "A local government unit shall likewise have the power to levy and collect charges or contributions unique, distinct and exclusive to it." The reason is the fact that in the previous sentence of Section 8, each local government unit is already vested with the power to create its own sources of revenues. So, imagine under this section as approved with all the amendments there will be a situation created wherein the citizens of a local political unit would be heavily burdened with taxes. If we are going to interpret this Section 8 to its logical conclusion, it would appear that even a barangay unit would have the power to levy taxes. Then if we are going to carry it further, the municipal government can also levy taxes. In addition, we have the provincial government, and on top of the provincial government, there will be the regional unit which would be levying and imposing taxes on the poor citizens of a political unit. Of course, on top of it all, we have the national government.

So, Madam President, this particular sentence would not only be a surplusage but would be a heavier burden imposed upon simple citizens living in a political unit. For these reasons, I submit most respectfully that this particular sentence be deleted.

THE PRESIDENT: What does the Committee say?

MR. NOLLEDO: The Committee regrets that it cannot accept the amendment because this provision is in keeping with the principle that we have to respect the customs and traditions of the people of the indigenous communities.

MR. COLAYCO: Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Madam President.

This is a clarificatory question to the Committee: What does the Committee have in mind in allowing this power to a local government unit to collect charges or contributions? These are not taxes, I am sure.

MR. ALONTO: Madam President, I am ordered by our distinguished Chairman to make the explanation.

We are aware that the Filipino nation is composed of a pluralistic society and as such, each sectoral composition has a particular unit with customs and traditions peculiar to it.

Let us take the case of the Bangsa Moro, which started organizing its government through voluntary

contributions. The Bangsa Moro has developed this particular idea which was later on confirmed by Islam when it came to this country and contributed voluntarily towards the development of this form of government. The Islamic community also helps run this government up to this moment, whether inside or outside government authority. This is particularly the intention of this particular sentence included in this section.

These good traditional customs of the different indigenous groups in the country should be given a constitutional recognition so that we can further develop those customs for the interest not only of the locality where they belong but also for the socio-political development of the country as a whole. That is the motive.

MR. COLAYCO: I am afraid the Commissioner has not answered my questions.

MR. NOLLEDO: What are the Commissioner's questions?

MR. COLAYCO: What are these charges? What are these contributions? For what purposes? Is it to build a church, is it to build a road, is it to contribute to a fiesta? That is all I want to know.

MR. ALONTO: Particularly, that will be used in general to contribute to the purpose of developing and strengthening the society itself.

MR. COLAYCO: But we have the taxing power for that, for public use.

MR. ALONTO: No, the taxing power that we have in general is for public use.

MR. COLAYCO: So these charges are for private use. Is that what the Commissioner mean?

MR. ALONTO: The purpose of the particular political unit who developed this traditional custom of voluntarily giving contributions or levying those people constituting that society is to help support whatever project it has for sociopolitical development.

MR. NOLLEDO: The Commissioner means that there are cooperative efforts among members of indigenous communities. So, without any constitutional authority or legal authority since anyone of them can question the levy, they may not be able to raise some sinking fund for the common benefits as dictated by their customs and traditions.

We do not need to cite specific examples because even in areas that are located in Mindanao and Palawan, these people demand contributions from the members of their tribes. And some members of the tribes who have studied in Manila change their minds because of their new environment. They object to the imposition of levies. But actually these levies have been recognized since time immemorial. And the purpose is laudable: for their common benefit in the spirit of cooperativism.

MR. COLAYCO: That is precisely my point. The Committee gives the power to levy. That means it is mandatory.

MR. ALONTO: As I said, this is only constitutionalizing the particular customs and traditions of the different tribes.

MR. COLAYCO: Will the Commissioner mention a particular purpose for the alleged voluntary contributions which have been given by the local community? Let us say, for instance, it is customary at least in our province that when a person dies, instead of sending flowers the people give "abuloy" in cash. Is it something like that?

MR. ALONTO: Something of that nature.

MR. COLAYCO: But we cannot make it compulsory.

MR. ALONTO: There are different indigenous tribes in this country that have already developed this practice to

the extent not only of a customary law but as an obligatory imposition among the members of the community.

MR. NOLLEDO: This provision was copied from the UP draft.

THE PRESIDENT: One at a time, please.

MR. COLAYCO: It is all right.

MR. NOLLEDO: Madam President, I would like to inform Commissioner Colayco that this was copied verbatim from the UP draft after studies of various customs and traditions in different parts of the country were made. This is also in response to the request of the indigenous communities.

MR. COLAYCO: I have the Commissioner's answer. However, I am not satisfied.

Thank you.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: May I propound some more questions on this matter. Let us suppose that in a Muslim community there is a custom particular to the Muslims but there are Christian residents in that community. Let us say that the community is 80 percent Muslim, 20 percent Christian. Will the tax based on Muslim customs be imposed also on the Christian residents of that community?

MR. ALONTO: I can assure the Commissioner that not only because it is not within the spirit of the Constitution to impose a different custom on a different indigenous tribe but also because as far as the Muslim community is concerned, we have this fundamental belief in Islam: "You cannot impose your way of life on others other than on yourself." And so, in a Muslim community the Muslims will never impose this on their Christian brothers who are living with them in the same community.

MR. RODRIGO: But this sentence provides that the levy will be made by the local government. And those who live in the locality under the local government might not be all indigenous people. As a matter of fact, in most communities the population is mixed.

MR. ALONTO: I agree with the Commissioner, but the wordings of this sentence could be improved to clearly define that the indigenous customs of a group of people cannot be forced upon others.

MR. RODRIGO: So, this first sentence of the section refers to communities and local governments in general.

MR. ALONTO: Yes.

MR. RODRIGO: After this, there are some sections regarding autonomous regions. Why not confine this provision to autonomous regions?

MR. ALONTO: I will have no objection to that proposal of transferring that particular provision to the autonomous regions if the consensus of the Members of the Constitutional Commission is that those other tribes in this country like the Tagalogs would not like to constitutionalize their good customary laws and traditions.

MR. RODRIGO: Thank you.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Madam President, I am constrained to object to the motion to delete the sentence in that

resectioned Section 11. I appreciate the position of the Committee that the intention here is to grant the local governments with the reasonable latitude of fiscal autonomy. Besides, it has been mentioned that it is already being practiced in some local governments in view of specific practices and traditions. So this provision would just give legal imprimatur to an already accepted practice. I would suggest, however, that this section be transposed to the Article on Autonomous Regions.

THE PRESIDENT: Are we ready to vote? Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, I just would like to know whether we have to put this in the Constitution. If it is already a custom that is flourishing without any objection, do we have to constitutionalize its continuance? Can we not allow them to flourish? In fact, it may later on be putting a straitjacket on them or be making it unhealthy for other groups.

So, for that reason, I would not also want this to be in the Constitution.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: If the reluctance is in view of possible abuse, it is my submission that there are sufficient safeguards in the Constitution itself. In the Article on the Bill of Rights, any possibility of arbitrary classification can be effectively circumscribed by the provisions on the equal protection of the laws. In the Article on the Legislative, we have a provision which states that all taxation shall be uniform.

BISHOP BACANI: Madam President, the objection is not only from the point of view of abuse but on the more basic question: "Do we need to put such a thing in the Constitution?"

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I am supporting the motion to transpose it in the Article on Autonomous Regions. The idea really is to codify, as it were, existing customary laws, so that these customary laws as they are integrated into the national law will strengthen the whole body of national laws. It is true that customary laws have a power of their own without the necessary coercion that is associated with bureaucracy. The idea really is to help strengthen the existing body of national laws by integrating what we call "ethnic laws."

BISHOP BACANI: Yes, but there is a provision in the Article on Autonomous Regions that the government shall strengthen and protect the traditions and the cultures. It is here.

MR. BENNAGEN: No, I think the idea is to specify this within the context of local governments.

BISHOP BACANI: Yes, but Section 4 states:

Within its territorial jurisdiction, an autonomous region shall have the legislative authority over the following: .
. . Preservation and development of customs and traditions, and culture indigenous to the autonomous region.

So, if that is the purpose, this is well served already by this provision abundantly.

REV. RIGOS: Madam President.

THE PRESIDENT: Commissioner Rigos is recognized.

REV. RIGOS: Madam President, I think the motion is to have this sentence deleted from this section, and the Committee is amenable to transferring this to an appropriate section under the Article on Autonomous Regions.

So, in effect, the Committee is amenable to have this deleted from this present section.

THE PRESIDENT: We do not have the official stand of the Committee yet.

MR. NOLLEDO: We adopt the stand of Commissioner Alonto, Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Maybe the idea of transposing this is not literal in the sense that we transpose this as a discrete statement. We are more interested in putting in the concept to strengthen the general provisions in regard to respecting existing indigenous traditions in the area, and I feel that that can be better discussed when we go into the Article on Autonomous Region.

So my idea is that this will not be bodily transposed to the Article on Autonomous Regions, but the concept will be integrated to the appropriate sections under Autonomous Regions.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, although I would be amenable to transposing this section, I would oppose removing it, especially after listening to the explanations of Commissioner Alonto. This is a kind of tax which is not uniformly applicable, and that being so, it is necessary to make a special authorization for it so that it does not run afoul with the equal protection clause. So, in effect, it would be an exception to the equal protection clause, and because it is an exception, it would seem necessary to specify it.

THE PRESIDENT: May we hear from Commissioner Suarez?

MR. SUAREZ: I think we have discussed the matter thoroughly, Madam President, except with respect to the matter of possible transposition of this particular provision to the Article on Autonomous Regions, but even if we reach that point, this humble Representation would still submit a motion for the deletion of this particular provision.

THE PRESIDENT: So I think we can proceed to vote on it.

MR. SUAREZ: Yes.

BISHOP BACANI: Madam President, before we vote may I just ask one question? Are charges or contributions really equivalent to the power to levy and collect charges or contributions?

MR. NOLLEDO: Yes, they have the nature of taxes.

MR. COLAYCO: Madam President, I would like to know from the Committee if it is agreeable to transpose this last sentence to another section on the Article on Autonomous Regions or to stick to the present configuration. I ask so because the first paragraph is no problem. Why risk a division simply on this particular last sentence when we can consider that later on under the Article on Autonomous Regions?

MR. NOLLEDO: I adopted the opinion of Commissioner Alonto. My only fear is that if we will transfer it to the portion on Autonomous Regions, there may be other tribes involved who are not included in the two autonomous regions that we are recognizing and, therefore, we limit the applicability of the provision.

MR. BENGZON: That is precisely the point.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

In order to expedite the matter, we will urge a voting on the matter.

VOTING

THE PRESIDENT: Yes, all that we are called upon is to decide whether or not we should delete the last sentence of Section 11. Commissioner Suarez has stated the principle that is involved in this particular sentence.

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

As many as are against the amendment, please raise their hand. (Few Members raised their hand.)

The results show 27 votes in favor, 10 against, and no abstention; the amendment is approved.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The first amendment would be on Section 10, line 24. After the word "provide," add the following words: CONSISTENT WITH THE BASIC POLICY OF LOCAL AUTONOMY. This has become necessary because of the Padilla amendment adding the words "AND LIMITATIONS."

THE PRESIDENT: What does the Committee say?

MR. NOLLEDO: The Committee accepts the amendment.

THE PRESIDENT: The Committee has accepted the amendment. Is there any comment on this?

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

MR. DAVIDE: On line 20 of Section 9, I propose for its division . . .

MR. NOLLEDO: That is now Section 12.

MR. DAVIDE: We will make the first sentence to be reworded as the second sentence of Section 11. It would read as follows: SUCH TAXES, FEES AND CHARGES SHALL ACCRUE EXCLUSIVELY TO THE LOCAL GOVERNMENT UNIT.

MR. NOLLEDO: Madam President, the Committee accepts the amendment.

THE PRESIDENT: Is there any objection to the proposed amendment?

MR. RODRIGO: Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Madam President, before we vote I think Commissioner Rodrigo was ahead.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I am not an expert on taxation, so I just want to know. Even a municipality levies local taxes.

Does the province have a share?

MR. SUAREZ: May I state that I have the same question, so I would like to join Commissioner Rodrigo in that inquiry.

MR. RODRIGO: I ask so because if a municipality levies taxes, it is impossible for the province to share in those taxes.

MR. NOLLEDO: I am not aware of any rule that says so but I know that even the province has also the power to levy taxes.

MR. RODRIGO: That is correct. But is it then the purpose of this amendment that taxes imposed by a municipality should be exclusively for that municipality and the province may not share at all in the taxes? Is that the purpose of this amendment?

MR. NOLLEDO: I think the question should be directed to the proponent.

MR. DAVIDE: Even under the Committee's wording, it would clearly appear that if a municipality levies a particular tax, the province is not entitled to a share for the reason that the province itself, as a separate local governmental unit, may collect and levy taxes for itself.

MR. NOLLEDO: Besides, the national government also shares national taxes with the province.

MR. RODRIGO: But if we approve that amendment, the national government may not share in the taxes levied by the province?

MR. DAVIDE: The national government may impose its own national taxes. The concept here is that the national government must share these national taxes with the other local governmental units. That is the second paragraph of the original Section 9, now Section 12, beginning from lines 29 to 30.

MR. RODRIGO: Do I get it then that if the national government imposes taxes, local government units share in those taxes?

MR. DAVIDE: Yes, the local government shares in the national taxes.

MR. RODRIGO: But if the local government imposes local taxes, the national government may not share?

MR. DAVIDE: That is correct because that is precisely to emphasize the local autonomy of the unit.

MR. NOLLEDO: That has been the practice.

MR. RODRIGO: Then let us go back to my original question. If a municipality imposes municipal taxes, the province may not share?

MR. DAVIDE: That is correct.

MR. RODRIGO: Is that the purpose?

MR. DAVIDE: Yes, because the province itself may impose taxes affecting properties or persons within this particular unit.

MR. RODRIGO: So if the provincial government imposes taxes, the municipalities may not share? Is that it?

MR. DAVIDE: They may not share; but it is a matter of strategy on the part of a province to improve the collection so that a certain percentage be given to the municipality. It is now a matter of political strategy.

MR. RODRIGO: I will come back to my question; I am not an expert on taxes. How is it at present?

MR. NOLLEDO: The same as contemplated by the answers of Commissioner Davide under P.D. No. 231.

MR. RODRIGO: "Kanya-kanya."

MR. NOLLEDO: "Kanya-kanya."

MR. RODRIGO: Thank you.

THE PRESIDENT: Will Commissioner Davide explain what is wrong with Section 12 as worded by the Committee in the committee report which reads: ". . . shall belong exclusively to local governments"?

MR. DAVIDE: In the committee report, I only caused the deletion of the words "be retained by" and "shall belong." In lieu of that, the word ACCRUE is placed. So, ". . . it shall ACCRUE exclusively to the local government units."

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nolleto is recognized.

MR. NOLLEDO: Will Commissioner Davide agree with the recommendation of the Committee that instead of putting "UNIT" we put there "local governments" as originally contemplated in our report? I fear that there might be a possibility or a need for the local government units within the province to share with the province portions of taxes imposed by the municipalities, as revealed by the inquiries of Commissioner Rodrigo. So, instead of using "UNIT," we just put there "local governments."

MR. DAVIDE: I concede to the wisdom of the proposition.

MR. NOLLEDO: In which case, the Committee gladly accepts the amendment.

MR. DAVIDE: So it will read: SUCH TAXES, FEES AND CHARGES SHALL ACCRUE EXCLUSIVELY TO THE LOCAL GOVERNMENTS.

THE PRESIDENT: How about the second sentence?

MR. DAVIDE: The second sentence would be a new section that would be Section 13. As modified it will read as follows: "LOCAL GOVERNMENT UNITS SHALL HAVE A JUST SHARE, AS DETERMINED BY LAW, in the national taxes WHICH SHALL BE automatically PERIODICALLY released to them."

MR. NOLLEDO: That will be Section 12, subsection (1) in the amendment.

MR. DAVIDE: No, we will just delete that because the second would be another section so Section 12 would only be this: "LOCAL GOVERNMENT UNITS SHALL HAVE A JUST SHARE, AS DETERMINED BY LAW, in the national taxes WHICH SHALL BE automatically PERIODICALLY released to them."

MR. NOLLEDO: But the word "PERIODICALLY" may mean possibly withholding the automatic release to them by adopting certain periods of automatic release. If we use the word "automatically" without "PERIODICALLY," the latter may be already contemplated by "automatically." So, the Committee objects to the word "PERIODICALLY."

MR. DAVIDE: If we do not say PERIODICALLY, it might be very, very difficult to comply with it because these are taxes collected and actually released by the national government every quarter. It is not that upon collection a portion should immediately be released. It is quarterly. Otherwise, the national government will have to remit everyday and that would be very expensive.

MR. NOLLEDO: That is not hindered by the word "automatically." But if we put "automatically" and "PERIODICALLY" at the same time, that means certain periods have to be observed as will be set forth by the Budget Officer thereby negating the meaning of "automatically."

MR. DAVIDE: On the other hand, if we do not state PERIODICALLY, it may be done every semester; it may be done at the end of the year. It is still automatic release.

MR. NOLLEDO: As far as the Committee is concerned, we vigorously object to the word "PERIODICALLY."

MR. DAVIDE: Only the word PERIODICALLY?

MR. NOLLEDO: If the Commissioner is amenable to deleting that, we will accept the amendment.

MR. DAVIDE: I will agree to the deletion of the word PERIODICALLY.

MR. NOLLEDO: Thank you.

The Committee accepts the amendment.

THE PRESIDENT: Will the Commissioner please read Section 12?

MR. NOLLEDO: I would like to commend Commissioner Davide for his receptiveness. That will abbreviate the proceedings of this Commission.

THE PRESIDENT: Will Commissioner Davide please clarify what has been amended for those who were not here yesterday? They are confused as to how we have worded and how we have changed the numbering of the sections.

MR. DAVIDE: Yes.

THE PRESIDENT: Let us start with Section 12.

MR. DAVIDE: The original Section 9, which is now Section 12, will read as follows: "LOCAL GOVERNMENT UNITS SHALL HAVE A JUST SHARE, AS DETERMINED BY LAW, in the national taxes WHICH SHALL BE automatically released to them."

THE PRESIDENT: This has been accepted by the Committee.

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

MR. SARMIENTO: Madam President, may I ask that Commissioner Guingona be recognized for an anterior amendment?

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

I would like to propose an amendment to the present Section 11, line 24, after the words "Congress may provide."

MR. NOLLEDO: We are informing Commissioner Guingona that that was already amended by Commissioner Davide by adding the words "consistent with the basic policy of local autonomy."

MR. GUINGONA: Yes, but just the same, this amendment is not affected by Commissioner Davide's amendment. My amendment would read as follows: NO GUIDELINES MAY BE ENACTED BY CONGRESS WHICH IN ANY MANNER WOULD DIMINISH THE AUTONOMY ALREADY ENJOYED BY HIGHLY URBANIZED CITIES AND CITIES INDEPENDENT OF THE PROVINCE BY VIRTUE OF PREVIOUS

CONGRESSIONAL GUIDELINES, UNLESS APPROVED BY THE MAJORITY OF THE INHABITANTS THEREOF.

THE PRESIDENT: Is this accepted by the Committee?

MR. NOLLEDO: The Committee regrets that it cannot accept the amendment.

THE PRESIDENT: Is there any comment on this particular proposed amendment of Commissioner Guingona?

MR. GUINGONA: May I be allowed to explain?

THE PRESIDENT: The Commissioner may proceed.

MR. GUINGONA: Madam President, I am for a strong national or central government, but I see no incompatibility between a strong government, on the one hand, and strong local government units as agents of the national government, on the other. I would like to congratulate the Committee for its perception; but unless these local government units are given the corresponding or adequate power in order to insure local autonomy, all our expressions of sympathy would be of no avail. I believe, Madam President, that there are two very important powers that a local unit may enjoy in order to have a genuine local autonomy. One is a meaningful participation in the power to govern themselves. The second is provided for in this particular section — the power to create sources of revenues and impose the corresponding taxes, levies, fees, et cetera.

In our discussions yesterday, it was clear that we have three categories of cities. We have the component cities, which are in the lowest grade or class "C"; the cities which are independent of the province, which we can categorize as class "B"; and the highly urbanized cities classified as class "A." I would take it that as these cities graduate from one level to another under the guidelines to be provided for by Congress, they would have greater power to create sources of revenue and the greater power to tax. Once these powers are already granted by the guidelines and are actually imposed, these should be considered vested powers that cannot be removed from the highly urbanized cities by another guideline that would be subsequently formulated by Congress.

For example, if Quezon City, because of its category under the guidelines in 1988, is allowed to tax the practice of medicine or law in that city or to tax airconditioners or whatever, Congress cannot pass another guideline in the future restricting it from imposing that kind of tax without the approval of the inhabitants of that city, urbanized city or city which is independent of the province because they are the ones directly affected. If we take this power away from them, this could be a subject of political football, where the powers already granted may be taken away. In order to strengthen local autonomy, the highly urbanized city which is already exercising powers duly granted to it by the guidelines should not be divested of these powers. I would also like to mention, Madam President, that I had originally intended to include the component cities but I have made my amendment conservative. But I would like to make it of record that perhaps the legislature could also consider the component cities with this matter in mind because when we talk of local autonomy, it is not only a matter of talking of the relationship of the national government vis-a-vis a local government unit. I would also envision local autonomy to mean the relationship of the smallest unit, the municipality, for example in relation to the bigger unit — today the bigger unit is the province. There could be in the future bigger government units — metropolitan governments, regional governments as indicated by Commissioner Ople yesterday. And this relationship between the municipal government and the regional government should also be taken into consideration.

As a matter of fact, a study was made by the UP College of Public Administration Local Government Center before the 1971 Constitutional Convention was convened. The UP Local Government Center made a research and found out that in many countries the trend is towards merging local units into bigger units. At that time, the UP Local Government Center of the UP College of Public Administration said that there were 80,000 local units in

the United States and there was a move to reduce this number to only 16,000.

Thank you, Madam President.

May I know if the Committee would accept the amendment?

MR. NOLLEDO: The Committee nevertheless regrets that it cannot accept the amendment. The matters contemplated in the amendment can be well taken care of in legislation.

MR. GUINGONA: I submit, Madam President.

THE PRESIDENT: We will submit this to a vote.

MR. GUINGONA: No, Madam President, I will not insist.

MR. NOLLEDO: Thank you, Commissioner Guingona.

MR. SARMIENTO: Madam President, before we proceed to Section 13, may I move that we vote on the whole Section 8, now Section 11, as remolded and reformulated? May I ask the Chairman of the Committee to read the whole of Section 11.

MR. NOLLEDO: Madam President, Section 11 should now read as follows: "EACH LOCAL GOVERNMENT UNIT SHALL HAVE THE POWER TO CREATE ITS OWN SOURCES OF REVENUES AND TO LEVY TAXES, FEES AND CHARGES SUBJECT TO SUCH GUIDELINES AND LIMITATIONS AS CONGRESS MAY PROVIDE, CONSISTENT WITH THE BASIC POLICY OF LOCAL AUTONOMY. SUCH LOCAL TAXES, FEES AND CHARGES SHALL ACCRUE EXCLUSIVELY TO THE LOCAL GOVERNMENTS."

MR. SARMIENTO: Madam President, may we now vote on Section 11?

VOTING

THE PRESIDENT: As many as are in favor of Section 11, as read by the Chairman, please raise their hand. (Several Members raised their hand.)

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

The results show 28 votes in favor and none against; Section 11, as amended, is approved.

MR. SARMIENTO: Madam President, may I ask Commissioner Nolleddo to read the whole of Section 9, now Section 12, as amended.

THE PRESIDENT: Please proceed.

MR. NOLLEDO: Section 9, now Section 12, reads as follows: "LOCAL GOVERNMENT UNITS SHALL HAVE A JUST SHARE, AS DETERMINED BY LAW, in the national taxes which shall be automatically released to them."

VOTING

THE PRESIDENT: As many as are in favor of Section 12, as amended, please raise their hand. (Several Members raised their hand.)

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

The results show 29 votes in favor and none against; Section 12, as amended, is approved.

MR. SARMIENTO: For his amendment to Section 10, now Section 13, may I ask that Commissioner Ople be recognized.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

In association with Commissioner Davide, I propose the amendment which reads as follows: "Local governments shall be entitled to share in the proceeds of the exploitation and development of the national wealth within their respective areas IN THE MANNER PROVIDED BY LAW, AND WITHOUT PREJUDICE TO SUCH SHARING, TAKING THE FORM OF DIRECT BENEFITS TO THE POPULATION." In view of the significance of this new section, may I ask the Committee's leave to give a brief explanation, Madam President.

MR. NOLLEDO: Yes.

MR. OPLE: Thank you, Madam President.

In the hinterland regions of the Philippines, most municipalities receive an annual income of only about P200,000 so that after paying the salaries of local officials and employees, nothing is left to fund any local development project. This is a prescription for a self-perpetuating stagnation and backwardness, and numbing community frustrations, as well as a chronic disillusionment with the central government. The thrust towards local autonomy in this entire Article on Local Governments may suffer the fate of earlier heroic efforts of decentralization which, without innovative features for local income generation, remained a pious hope and a source of discontent. To prevent this, this amendment which Commissioner Davide and I jointly propose will open up a whole new source of local financial self-reliance by establishing a constitutional principle of local governments, and their populations, sharing in the proceeds of national wealth in their areas of jurisdiction. The sharing with the national government can be in the form of shares from revenues, fees and charges levied on the exploitation or development and utilization of natural resources such as mines, hydroelectric and geothermal facilities, timber, including rattan, fisheries, and processing industries based on indigenous raw materials.

But the sharing, Madam President, can also take the form of direct benefits to the population in terms of price advantages to the people where, say, cheaper electric power is sourced from a local hydroelectric or geothermal facility. For example, in the provinces reached by the power from the Maria Cristina hydroelectric facility in Mindanao, the direct benefits to the population cited in this section can take the form of lower prices of electricity. The same benefit can be extended to the people of Albay, for example, where volcanic steam in Tiwi provides 55 megawatts of cheap power to the Luzon Grid.

The existing policy of slapping uniform fuel adjustment taxes to equalize rates throughout the country in the name of price standardization will have to yield to a more rational pricing policy that recognizes the entitlement of local communities to the enjoyment of their own comparative advantage based on resources that God has given them. And so, Madam President, I ask that the committee consider this proposed amendment.

MR. ALONTO: Madam President.

THE PRESIDENT: Commissioner Alonto is recognized.

MR. ALONTO: Will the Gentleman, the champion of autonomy, yield to some clarifications?

MR. OPLE. Very gladly, Madam President.

MR. ALONTO: Commissioner Ople has stated in his explanation that the population or inhabitants of the area should also benefit from the exploitation and development of the natural wealth and resources.

MR. OPLE: Yes.

MR. ALONTO: Will that also include the hiring and the employing of the local inhabitants who are qualified for the work and process of exploitation and development of this national wealth?

MR. OPLE: Yes, Madam President. In the broader contemplation of the sharing in the proceeds of natural resources and direct benefits to the population, a priority for the employment of local people is among the direct benefits to the population contemplated in this amendment.

MR. ALONTO: In that case, in behalf of the population of the island of Mindanao which is the source of the Maria Cristina electric power, I share with the Commissioner's amendment and strongly support the proposal.

MR. OPLE: Thank you, Madam President.

I just would like to put some caution into priority for local employment. It is also a fact that given a hydroelectric project, we need minimum technical skills that may not be locally available. However, although this section contemplates priority for local hiring it will not prejudice the viability of a project based on local natural resources if certain skills have to be imported, let us say, from Manila or Cebu in the case of a project in Mindanao.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, I support this proposal and it certainly is meritorious but I just wanted to make a manifestation that the new government has adopted in the case of electric power, within its framework for economic reforms, what they call grid pricing rather than a national pricing formula for electricity. This means that those with some natural resources, like Mindanao where the cost of power is lower, can set the price of power corresponding to the cost of power generation. In other words, there would be differences in the pricing of power depending on the grid and recognizing the natural resources behind such generation of power. So, this is meritorious. I just wanted to say that this is already the policy of government.

THE PRESIDENT: What does the Committee say?

MR. NOLLEDO: Madam President, I would like to ask Commissioner Ople if he is amenable to the rewording of his amendment. After "areas" on line 2 of page 3, we add the words: IN THE MANNER PROVIDED BY LAW INCLUDING SHARING WITH THE PEOPLE BY WAY OF DIRECT BENEFITS TO THEM.

MR. OPLE: Would the Gentleman agree to substitute INHABITANTS for "PEOPLE"?

MR. NOLLEDO: Instead of "PEOPLE" we use INHABITANTS?

MR. OPLE: Yes.

MR. NOLLEDO: So, the amended section will read as follows: "Local governments shall be entitled to share in the proceeds of the exploitation and development of the national wealth within their respective areas IN THE MANNER PROVIDED BY LAW INCLUDING SHARING WITH THE INHABITANTS BY WAY OF DIRECT BENEFITS TO THEM."

THE PRESIDENT: Is that accepted, Commissioner Ople?

MR. OPLE: Just a slight amendment: WHICH MAY BE ALSO IN THE FORM OF DIRECT BENEFITS TO THE INHABITANTS. This is simpler.

Is the word "INHABITANTS" proper to local government units or should it be "POPULATION"? May I call on

the indomitable Chairman of the Committee on Local Governments to submit a final phrasing.

MR. NOLLEDO: As far as the Committee is concerned, it is adopting the original suggestion: "IN THE MANNER PROVIDED BY LAW INCLUDING SHARING WITH THE INHABITANTS BY WAY OF DIRECT BENEFITS TO THEM." I think that is clear enough.

MR. OPLE: I yield to the more gracious style of the Committee, Madam President.

MR. NOLLEDO: The Committee accepts the amendment, Madam President.

MR. OPLE: Thank you.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

May we just clear up one point, Madam President? I am with the Gentleman in his suggestion that the inhabitants should be getting direct benefits from the royalties that may be derived but it is not clear to me who shall direct the manner by which these benefits should be extended to the inhabitants. Would it be Congress or would it be the local government?

MR. OPLE: It may be both, Madam President. I think Congress may have to pass an enabling legislation that will fix certain standards and proportions of sharing, but this Section can operate in a self-executory manner without benefit of legislation. For example, Commissioner Monsod pointed out that under the regional grid system, it is already being done by the incumbent government, but I would assume that the local government will initiate a process whereby, for example, the National Power Corporation can consider a petition of the local people for a price rebate on the basis of this new Section 13.

MR. SUAREZ: To concretize the mechanism, let us say a particular political unit would be entitled to P1 million worth of royalties in a year. In order to determine how this P1 million will be extended by way of direct benefits to the people at the first instance, the local government will have to initiate the process, but to be concretized in a legislation to be passed by Congress.

MR. OPLE: It is very correct, Madam President.

MR. SUAREZ: Thank you.

THE PRESIDENT: Will the honorable Chairman read Section 13 once more so that we can vote on this?

MR. NOLLEDO: Madam President, Section 13 now reads as follows: "Local governments shall be entitled to share in the proceeds of the exploitation and development of the national wealth within their respective areas IN THE MANNER PROVIDED BY LAW INCLUDING SHARING WITH THE INHABITANTS BY WAY OF DIRECT BENEFITS TO THEM."

MR. GUINGONA: Madam President, before we call for a vote, I manifested my intention to the Floor Leader to introduce one more amendment to this section and I was about to be called after Commissioner Ople.

THE PRESIDENT: So, it will be a proposed amendment to the amendment of Commissioner Ople.

MR. GUINGONA: Madam President, are we ready to vote?

VOTING

THE PRESIDENT: We are voting on Section 13, as amended by Commissioners Ople and Davide.

As many as are in favor of this particular proposed amendment of Commissioners Ople and Davide to Section 13, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (One Member raised his hand.)

The results show 30 votes in favor and 1 against; the proposed amendment is approved.

MR. SARMIENTO: Madam President, may I ask that Commissioner Guingona be recognized?

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

I would like to insert the word *EQUITABLY* between the words "to" and "share" on line 31 of Section 13. I feel that since this wealth belongs to the local government unit, then they should be entitled to an equitable share.

THE PRESIDENT: What does the Committee say?

MR. NOLLEDO: The Committee accepts the amendment.

MR. GUINGONA: Thank you, Madam President.

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

MR. SARMIENTO: Madam President, may I ask that Commissioner Bennagen be recognized for a minor amendment?

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

On Section 13, page 3, I propose to change the word "exploitation" to *UTILIZATION* in order to temper the unsavory connotation of the word "exploitation," which, incidentally, has already been deleted in the other provisions for consistency.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: I agree with Commissioner Bennagen. As a matter of fact, in the interest of harmonizing the words with the wording of the Article on National Economy and Patrimony, we are already avoiding the word "exploitation" and instead we are using the words "*UTILIZATION* and development." So, is it all right if we harmonize it that way, Madam President?

THE PRESIDENT: Yes.

MR. NOLLEDO: The Committee accepts the amendment.

MR. MONSOD: Thank you.

MR. OPLE: I also support the amendment.

THE PRESIDENT: What is the word to be used?

MR. BENNAGEN: "UTILIZATION and development" and delete the word "exploitation."

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. SARMIENTO: Madam President, may I ask that the Chairman, Commissioner Nollado, read the whole of Section 13 before we vote on it.

MR. NOLLEDO: Madam President, Section 13, as amended, now reads as follows: "Local governments shall be entitled to **EQUITABLY** share in the proceeds of the **UTILIZATION** and development of the national wealth within their respective areas **IN THE MANNER PROVIDED BY LAW, INCLUDING THEIR SHARING WITH THE INHABITANTS BY WAY OF DIRECT BENEFITS TO THEM.**"

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Can we delete the words "TO THEM" in the last sentence of the Section?

THE PRESIDENT: Is there any objection?

MR. OPLE: I support the amendment, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized. Is it still on Section 13?

MR. DAVIDE: Yes, Madam President. This is just to transpose the Guingona amendment. Instead of the phrase "to **EQUITABLY** share in," I propose **TO AN EQUITABLE SHARE** so that it will harmonize with the just share in the national taxes.

MR. NOLLEDO: I accept the amendment, Madam President.

MR. OPLE: I support the amendment.

MR. SARMIENTO: May I ask the Chairman of the Committee to read the whole of Section 13, as amended, so we can vote on it?

MR. NOLLEDO: Madam President, Section 13, as amended very recently, now reads as follows: "Local governments shall be entitled **TO AN EQUITABLE SHARE** in the proceeds of the **UTILIZATION** and development of the national wealth within their respective areas **IN THE MANNER PROVIDED BY LAW, INCLUDING THEIR SHARING WITH THE INHABITANTS BY WAY OF DIRECT BENEFITS.**"

VOTING

THE PRESIDENT: As many as are in favor of this Section 13, as read by the Chairman, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (One Member raised his hand.)

The results show 31 votes in favor and 1 against; the amendment is approved.

MR. SARMIENTO: Madam President, for Section 11, now Section 14, may I ask that Commissioner Maambong be recognized.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Madam President, I am not proposing an amendment. I just want to manifest that the word "barrio" in Section 14 should now be changed to BARANGAY because of the amendment to Section 1 of "barrios" to BARANGAY.

THE PRESIDENT: Does the Committee agree?

MR. NOLLEDO: Yes, we have made the change, Madam President.

THE PRESIDENT: Is there any objection to the change of the word "barrio" to BARANGAY? (Silence) The Chair hears none; the amendment is approved.

MR. SARMIENTO: Madam President, may I ask that Commissioner Rosario Braid be recognized?

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, I will not make an amendment, if the Committee can answer my question.

Would the criteria on Section 14, line 5, page 3 include criteria suggested by environmental planners such as encouragement of mergers, subdivisions and alterations of boundaries according to geographical, cultural considerations? These have been recommended by the Society for Environmental Planners and various other institutes. But the provision here seems to state that any alteration would have to conform to criteria laid in the Local Government Code which uses criteria of size and income. Should we continue to perpetuate the current geographical divisions which are criticized as the gerrymandering of local politicians or should we encourage the creation of new mergers according to these factors I mentioned?

MR. NOLLEDO: Do I understand that the Commissioner is against gerrymandering?

MS. ROSARIO BRAID: Yes, I am.

MR. NOLLEDO: The factors mentioned by the Commissioner are deemed contemplated by the Committee.

MS. ROSARIO BRAID: I raise the question, Madam President, because it says here that the criteria are those established by the Local Government Code. I looked up the Code but it does not state those criteria I mentioned but only the criteria of size and income.

MR. NOLLEDO: Yes. I think the criteria in the Local Government Code are insufficient, Madam President. I subscribe to the Commissioner's statement that the factors mentioned should likewise be considered.

MS. ROSARIO BRAID: Should not these criteria be included here?

MR. NOLLEDO: Yes, I think they should be considered.

MS. ROSARIO BRAID: Therefore, could we amend this section to include those factors as additional criteria?

MR. NOLLEDO: I think we are only urging Congress to consider those criteria mentioned without necessarily amending this provision. The Commissioner told me that she is merely inquiring and if I would say affirmatively that those factors should be considered, necessarily there is no need for amending this section.

MS. ROSARIO BRAID: Thank you.

MR. NOLLEDO: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, this will be on Section 1, for the autonomous regions.

THE PRESIDENT: May I just be clarified? Was this Section 14 now transferred to be known as Section 4?

MR. DAVIDE: That was the Maambong proposal, I guess.

THE PRESIDENT: Yes.

MR. DAVIDE: Madam President, my proposed amendment to that was already accepted by the Committee and it is only the deletion of the words "unit or" on line 8.

THE PRESIDENT: So, do we still have a Section 14?

MR. DAVIDE: That was supposed to be transferred to an earlier portion, Madam President.

MR. NOLLEDO: Madam President, while this is denominated as Section 14, this should be transferred after Section 3 and should now be Section 4. Transposition was made upon motion of Commissioner Foz.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: While we have already approved the deletion of "unit or," I would like to inform the Committee that under the formulation in the present Local Government Code, the words used are actually "political unit or units." However, I do not know the implication of the use of these words. Maybe there will be no substantial difference, but I just want to inform the Committee about this.

MR. NOLLEDO: Can we not adhere to the original "unit or units"? Will there be no objection on the part of the two Gentlemen from the floor?

MR. DAVIDE: I would object. I precisely asked for the deletion of the words "unit or" because in the plebiscite to be conducted, it must involve all the units affected. If it is the creation of a barangay, the municipality itself must participate in the plebiscite because it is affected. It would mean a loss of a territory.

THE PRESIDENT. What is now to be considered?

MR. NOLLEDO: Madam President, we will now proceed to the autonomous regions.

MR. SARMIENTO: Madam President, may I ask that Commissioner Suarez be recognized for an anterior amendment.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you.

I have an amendment, but if I obtain the necessary clarification from the distinguished Chairman, I will not press for the amendment. It is in connection with the words "boundary substantially altered" appearing under what is now known as Section 14. Madam President, do I take it that the plebiscite and all other requirements in the matter of boundary alteration would be needed only in case it is substantial in character?

MR. NOLLEDO: Yes, Madam President.

MR. SUAREZ: So if it is less substantial in character, there is no need for a plebiscite or for the other requirements.

MR. NOLLEDO: That is the implication.

MR. SUAREZ: And what would be considered substantial alteration, for purposes of clarification on the record, Madam President?

MR. NOLLEDO: The Committee leaves it to Congress to determine by formulating the necessary provision in the Local Government Code.

MR. SUAREZ: Thank you.

Would the Gentleman have any objection if we delete the word "substantially" in order to avoid any confusion or misunderstanding regarding its possible interpretation even by Congress itself? In other words, the moment there is a boundary alteration, then it is mandated that all the requirements must be complied with.

MR. NOLLEDO: Madam President, there is a possibility that the boundary involved may be minimal and the other municipality will not object, and the people perhaps of that municipality will not object. So I think the word "substantially" should remain in the provision.

MR. SUAREZ: Thank you.

We will not press for the amendment.

MR. NOLLEDO: Thank you, Madam President.

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

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: We are now on Section 14, line 10, page 3 of the draft. Before the first word "There," I suggest that the following phrase be placed, namely, SUBJECT TO THE APPROVAL IN A PLEBISCITE BY A MAJORITY OF THE VOTERS OF THE LOCAL GOVERNMENT UNITS AFFECTED and put a comma (,) after. That would be my first amendment because I will have another amendment on line 12.

THE PRESIDENT: The Commissioner has denominated this as Section 14. Do I understand now that we are not following the numbering of the sections in the Committee Report?

MR. NOLLEDO: Madam President, the numbering is not consecutive with respect to autonomous regions. So we may refer to that as Section 1 of Autonomous Regions or can we refer to that as Section 14?

MR. BENGZON: Considering that this is one article, perhaps we should have a continuous numbering.

MR. ALONTO: Madam President, at the start of the discussion on the report of the Committee on Local Governments, the Chairman stated that this report on local government consists of two parts: The first part refers generally to all local government units; and the second part refers to autonomous regions. In the second part, we start with Sections 1, 2, 3, 4 and so on.

MR. BENGZON: It does not matter with me, Madam President. That is another issue which the body can consider at the proper time.

THE PRESIDENT: So let us adhere to the draft — Section 1 of the Autonomous Regions.

MR. BENGZON: Yes, Madam President. May I repeat my amendment to Section 1, Autonomous Regions. Before the word "There" on line 10, put the following phrase: "SUBJECT TO THE APPROVAL IN A PLEBISCITE BY A MAJORITY OF THE VOTERS OF THE LOCAL GOVERNMENT UNITS AFFECTED," and then continue with "There shall be created autonomous regions in Muslim Mindanao and the Cordillera consisting of provinces . . ."

MR. SUAREZ: Madam President, may I be recognized to clear up one point?

THE PRESIDENT: Please proceed.

MR. SUAREZ: May I call the attention of Commissioner Bengzon to lines 26, 27 and 28 which read:

The creation of the autonomous region shall be approved in a plebiscite by a majority of the voters of the constituent units.

Will this not operate to solve the problem which the Commissioner raised under Section 1?

MR. BENGZON: It depends on how we interpret this, Madam President. In the way I envision it, there are two sets of plebiscite. We have to know first which are those provinces in one region that would wish to be a part of the autonomous region. Subsequently, Congress will enact the organic act which will be the constitution of this autonomous region, and this organic act will thereafter be presented to the people for approval in a plebiscite.

MR. SUAREZ: If I understand the Gentleman correctly, what he is suggesting is the first step.

MR. BENGZON: What I am suggesting is the first step.

MR. SUAREZ: And the second step is the one contemplated under lines 26, 27 and 28 and this will be undertaken or resolved and determined by the voters of the constituent units — in other words, the constituent political units which have already agreed.

MR. BENGZON: These are the units which have already opted to be part of the autonomous region. They will now be ratifying that organic act which, in effect, will be their constitution.

MR. SUAREZ: This is pursuant to Commissioner Bengzon's suggested amendment to Section 1.

MR. BENGZON: Yes, Madam President.

MR. SUAREZ: Thank you.

MR. BENGZON: May I be allowed to explain, Madam President.

THE PRESIDENT: Please proceed.

MR. BENGZON: It may be true that historically there are a lot of our brothers in these areas who have wanted to become autonomous. Precisely, for that very reason, we should not deprive them of the right to express categorically their desire to be a part of the autonomous region. This is a rare and historic moment in their lives and in our history as a whole. Therefore, we should respect that right and we should give them every opportunity to express individually this desire of theirs to become a part of the autonomous region.

Secondly, we have seen quite a number of people here who have come and who have expressed their desire to be part of the autonomous regions. We have the Ifugaos; the Kalingas and those from Apayao, but we do not know what is the feeling of the other brothers we have in the other parts of the provinces that may be affected by this move. There may be other indigenous communities in other provinces, perhaps, in La Union or in Pangasinan, and we do not know what their feelings are about this. If they do agree to become part of the autonomous region, well and good, and, therefore, we should give them that rare opportunity in this history of our country to express affirmatively their desire. In the same manner, those who may not wish to become part of this autonomous region should also be given this opportunity to express in black and white their desire not to join the autonomous region. All provinces and municipalities which will form part of the autonomous region would be very clearly seen to have expressed categorically their desire to become part of the autonomous region.

Our brothers in Mindanao should have no problem insofar as this is concerned, particularly those in Region IX and in Region XI because they have been given the local autonomy they now have. But then let us give every generation that is still living this great opportunity in our history to express affirmatively their right, their desire to become part of the autonomous region. In this manner we cannot be said to have rammed autonomy down the throats of our brothers in these areas just because a majority of them have said that they want to be autonomous. Those who do wish to be part of the autonomous region should be given the opportunity to express that desire. After we shall have gotten their votes and after we shall have determined that these provinces wish to become part of the autonomous region, that is the time when Congress will now enact the organic act that would spell out the details on the creation of this autonomous region. This will be presented thereafter again in a plebiscite, this time to approve the organic act that has been prepared by Congress.

MR. ALONTO: Madam President, will the Gentleman yield to some questions?

MR. BENGZON: Gladly, Madam President.

MR. ALONTO: The Committee feels that Section 1 is the general provision which merely points out and mandates the Congress to organize two autonomous regions — Muslim Mindanao and the Cordilleras.

MR. BENGZON: Yes.

MR. ALONTO: The process by which Congress shall start to reorganize is found in the other sections under the heading Autonomous Regions as stated and already pointed out by Commissioner Suarez. In Section 2, the Congress shall organize this in such a manner that all those units that wish to join the autonomous region shall be consulted because Congress would not be enacting an organic act without consulting the multisectoral body that is involved in these two regions. And so, what the Commissioner is trying to prevent is already stated in this section that has been presented to the body. So, a few would suggest to put that phrase there that will give a different meaning to this section which is of general application to the rest of the country.

MR. NOLLEDO: Madam President, the Committee deeply regrets that it cannot accept the amendment, because it is emasculating the entire set of provisions on Autonomous Regions. It will be unwieldy to create the autonomous regions because we are contemplating on two kinds of plebiscite. I think the provisions on lines 26 and 28 are clear enough with respect to Section 2, because we have to consult the multisectoral bodies for each autonomous region. Public hearings will be conducted, and then when the organic act is passed, it is only after this organic act has been passed that the people will be able to determine whether the provisions thereof will really redound to their benefit. If we go to a plebiscite for the first time, telling them whether they wish to create autonomous regions, the people may be misinformed and, therefore, there will be no basic issues to be defined.

This Chairman regrets that that kind of amendment presented is not in accordance with what has been agreed upon in a caucus.

MR. BENGZON: Madam President, may I reply?

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: There is no need to be very emotional about this whole thing. I do not think that the Chairman really got my point here.

In this body, we have approved that autonomous regions will be created for Muslim Mindanao and the Cordilleras. That is definite. There is no quarrel about that. It is definite. The only purpose in my amendment is to find out which among those provinces would wish to become part of the autonomous region. We have several provinces that will be involved. So, let us find out from those provinces if all of them are willing to be part of the

autonomous region. We cannot ram it down their throat. I am sure that there are several provinces that are willing, that would wish to become part of this autonomous region. But it should be stated in black and white. They should be given that rare opportunity to express their affirmative belief.

BISHOP BACANI: Madam President.

THE PRESIDENT: May we hear Commissioner Bacani.

BISHOP BACANI: Madam President, this is in response to what Commissioner Nollado said. In Section 2, what is being mandated is that Congress shall enact an organic act in consultation with multisectoral bodies for each autonomous region, defining the basic structure of government for the region. I think what is being asked by Commissioner Bengzon — and I would like to second him in that — is that the people would also be able to exercise self-determination as to whether they would themselves in a particular town or province be willing to be included in the autonomous region. I think that was basically answered by Commissioner Alonto at one time when we were asking him about the constitution of this autonomous region. He said that in cases where the places are inhabited not only by Muslims, then people can determine whether or not they want to join the autonomous region. But how are we going to find out whether the people want to join the autonomous region, if we do not do it by a plebiscite?

MR. AZCUNA: Madam President.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Madam President, I wonder if Commissioner Bengzon and the Committee would accept a slight suggestion which would necessitate only one plebiscite for determining both the approval of the autonomous region, as well as the inclusion or noninclusion of constituent units. That can be very easily accomplished by adding to the last sentence of the last paragraph of Section 2 the proviso that PROVIDED, THAT ONLY CONSTITUENT UNITS VOTING FAVORABLY IN SAID PLEBISCITE SHALL BE INCLUDED IN THE AUTONOMOUS REGION. The second paragraph of Section 2 will, therefore, read as follows. "The creation of the autonomous region shall be EFFECTIVE WHEN approved by majority of the voters of the constituent units IN A PLEBISCITE CALLED FOR THE PURPOSE: PROVIDED, THAT ONLY CONSTITUENT UNITS VOTING FAVORABLY IN THE SAID PLEBISCITE SHALL BE INCLUDED IN THE AUTONOMOUS REGION." I think that this will accomplish, with only one plebiscite, both the approval of the autonomous regions, as well as the determination of which provinces shall be included and which shall not be included in said autonomous region.

THE PRESIDENT: How about the organic act?

MR. AZCUNA: Madam President, the organic acts are the ones that will be submitted to the voters for a plebiscite; organic acts will contain the territorial delimitations.

MR. BENGZON: Madam President, may I ask Commissioner Azcuna a question?

THE PRESIDENT: Please proceed.

MR. BENGZON: In that one plebiscite, are we already going to present to the people the organic act that will be made by Congress?

MR. AZCUNA: Yes, Madam President. The organic act will already be presented, together with the proposed territorial delimitation or the constituent units. And once the organic acts are accepted, only those constituent units which voted in favor of the organic acts will be included in the autonomous region. That will be the effect of the plebiscite.

MR. BENGZON: Madam President, what about a particular area, province, municipality or barrio which may wish to join in the autonomous region, but when the organic act is presented it would not agree with the terms or the delimitations and they may vote against that?

MR. AZCUNA: Madam President, the formulation of the organic act will be through a method of consultation with local leaders. So, presumably, it will distill the consensus of the regions and the inhabitants therein, so that it will probably be acceptable to most, if not to all, of the inhabitants of that region. It will really be left to whether or not they want to be included in the autonomous region rather than on a term that they do not like. Anyway, the basic powers are already defined in this Article, so it will just be really details of the region, inclusion of certain territories that will be legislated. My proposal would simplify it by having only one plebiscite, and then determining in that plebiscite whether a certain province or a certain city voted in favor, in which case it will be included.

MR. BENGZON: May I have then the suggested amendment of the Commissioner.

MR. AZCUNA: Madam President, I suggest that lines 26 up to 28 be reworded as follows: "The creation of the autonomous region shall be EFFECTIVE WHEN approved by majority of the voters of the constituent units IN A PLEBISCITE CALLED FOR THE PURPOSE: PROVIDED, THAT ONLY CONSTITUENT UNITS VOTING FAVORABLY IN THE SAID PLEBISCITE SHALL BE INCLUDED IN THE AUTONOMOUS REGION."

MR. BENGZON: Madam President, if the Committee is willing to accept that, I am willing to withdraw my amendment on Section 1, line 10.

THE PRESIDENT: Or the Commissioner can join in this particular amendment.

MR. BENGZON: Yes, Madam President, I will join Commissioner Azcuna in that amendment.

SUSPENSION OF SESSION

MR. NOLLEDO: May I ask for a suspension, Madam President, in order to consult the other members of the Committee for what involves a transcendental question.

THE PRESIDENT: The session is suspended.

It was 12:08 p.m.

RESUMPTION OF SESSION

At 12:21 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

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

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: May I request my fellow Commissioner and partner, Commissioner Azcuna, to take the microphone. Since I have agreed to accept the proposal of Commissioner Azcuna by amending lines 26, 27 and 28, which amendment has been accepted by the Committee, may I request the Commissioner to read that amendment?

THE PRESIDENT: Please proceed.

MR. AZCUNA: Madam President, Section 2, as amended, will read as follows: "The creation of the autonomous

region shall be EFFECTIVE WHEN approved by majority of the voters of the constituent units IN A PLEBISCITE CALLED FOR THE PURPOSE: PROVIDED, THAT ONLY CONSTITUENT UNITS VOTING FAVORABLY IN THE SAID PLEBISCITE SHALL BE INCLUDED IN THE AUTONOMOUS REGION.

MR. DE LOS REYES: Madam President, will Commissioner Azcuna agree to an amendment to his amendment?

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Instead of "constituent units," I suggest PROVINCE OR CITY, so that it will not include municipality and barangay.

THE PRESIDENT: Is that acceptable?

MR. AZCUNA: It is accepted, Madam President.

MR. DE LOS REYES: Thank you, Madam President.

THE PRESIDENT: What does the Committee say?

MR. NOLLEDO: Madam President, we accept the amendment of Commissioner de los Reyes.

THE PRESIDENT: Is there any objection to this proposed amendment on lines 26, 27 and 28?

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: May I just ask a clarificatory question? Why are we excluding municipalities as valid constituent units for purposes of a plebiscite?

MR. DE LOS REYES: Madam President, it is not that we are excluding the municipal unit as a unit or that we are prejudiced against municipal units; but just imagine the anomaly if, for example, the whole province of Zamboanga is agreeable to be a member of the autonomous region, and then one small municipality is against it, and that one municipality will not be a member of the autonomous region. That would be anomalous.

MR. MONSOD: Yes.

MR. DE LOS REYES: It could also be that one barangay will be against being a member of the autonomous region. So, we should have a certain parameter by limiting it to province or city. That is my reason.

MR. MONSOD: Madam President, I can see the point in the case of the barangay. But let us take the case of Lanao del Norte which, I believe, has 24 municipalities. As I understand it, and I can be corrected, there are 12 or 13 Muslim municipalities and 11 or 12 Christian municipalities. Would that not complicate the issue if we say that the 11 municipalities, if they are really Christian municipalities, can be outvoted in the province, even if individually there is a very strong majority not to be included in the autonomous region?

MR. DE LOS REYES: I would think that they should abide by the decision of the majority in the province. Otherwise, if we will allow each municipality to have their say on the matter, then that will defeat the very purpose for which autonomous regions are being created.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: May I inquire from Commissioner Azcuna? Suppose there are six or seven municipalities that are contiguous and adjacent to each other and which all vote against joining the autonomous region, will that not

be a sizeable unit or group to warrant being exempted? I would just like to know.

MR. AZCUNA: Madam President, as the provision is presently worded, this would depend on the relative size of population or voter-wise as against the whole province. If it is the majority of the province, then it can turn the vote for that province. But the reckoning of inclusion or exclusion from the region would be on a province-to-province and city-to-city basis as worded. It will be reckoned on the basis of the voting in the province and in the cities included in the proposed autonomous region, not by municipalities.

BISHOP BACANI: Not even by groups of municipalities?

MR. AZCUNA: Not even by groups of municipalities.

BISHOP BACANI: Thank you very much.

MR. BENGZON: Madam President, may I add that before this plebiscite takes place, Congress shall have already enacted the organic act. Before it enacts this organic act, it will go through the process of public hearings and consultations. And I suppose those municipalities that would not wish to become part of the autonomous region can certainly express their desire. And if they are unable to succeed in Congress, they can always try when it comes to the plebiscite. Otherwise, we might get into a situation where one small municipality in the middle of a province may vote against it and, therefore, it will become an island unto itself.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Madam President, I would like to pose one question: if a city within the prospective autonomous region will not participate in the plebiscite or would boycott the plebiscite, would such a boycott be considered as a rejection of its membership in the autonomous region?

MR. BENGZON: Yes.

MR. DAVIDE: So it may be actual participation with positive rejection or nonparticipation at all which would also amount to a rejection.

MR. BENGZON: Yes, because this is such an important and historic moment in the history of the country that there should be an affirmative expression of the will of the people.

MR. DAVIDE: If it is nonparticipation, it is not really affirmative in the sense that a vote against is cast.

MR. BENGZON: That is right.

MR. DAVIDE: So, if they do not participate, would such nonparticipation by the greater number of inhabitants in a given city be construed as amounting to a rejection?

MR. BENGZON: It should be construed as a negative vote.

MR. DAVIDE: So, it is a negative vote.

Thank you.

MR. ALONTO: Madam President.

THE PRESIDENT: Commissioner Alonto is recognized.

MR. ALONTO: The act of boycotting does not necessarily mean a refusal to join the autonomous region. It can mean a defiance against the constituted authority of this country. So, I beg to disagree with the interpretation given by Commissioner Bengzon to the inquiry of Commissioner Davide. I think it should not be taken into

consideration in the discussion of this historic event.

THE PRESIDENT: The Chair agrees with Commissioner Alonto.

MR. BENGZON: Madam President, I was going to say that we have been enlightened by the explanation of Commissioner Alonto and, therefore, we agree with the interpretation of the Committee that those who wish to vote affirmatively must vote "yes"; those who do not wish to join must cast their vote and vote "no"; and that in case some will boycott, that boycott will not be considered as a negative vote.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I just want to add a few notes here as a result of our public hearings and consultations with various groups which are involved in this issue. This idea is not mine but it came from any of these individuals involved in consultation, both in the Cordilleras and in Muslim Mindanao. There is this apprehension among the non-Muslims and the non-Cordillera people about this inversion of the historical process, which means that some kind of a reversed discrimination can emerge from the autonomy status. One of them believes that that is a projection of the Christian-Muslim relationship in the case of the South, and of the lowlander-highlander relationship in the North. They agreed in their deliberations that they will abide by the principle of full equality and nondiscriminatory practices for that is the principle that they are trying to work by. The details of this have to be worked out in the organic act and in all other acts that would emanate from this autonomy status.

In any case, the feeling is that they have learned enough from these centuries of struggle not to repeat or to invert that kind of historical process. If that is a consoling thought, then I wish to share that with the body.

THE PRESIDENT: Thank you.

Are we now ready to vote on this particular proposed amendment of Commissioners Azcuna and Bengzon?

MR. RODRIGO: Madam President, before we vote, may I just ask a question?

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I had to be out on important matters, so if my question has already been answered, please tell me.

Once the autonomous region is formed and because of migration, may a certain province decide later on, say ten years from now, to secede from the autonomous region?

MR. BENGZON: Madam President, that is the subject of an amendment which Commissioner Davide will propose a little later. But in the meantime, we would like to get through with our amendment which has already been approved by the Committee. The fact of withdrawal, I think, is the subject of another amendment.

MR. RODRIGO: Thank you.

VOTING

THE PRESIDENT: As many as are in favor of this proposed amendment of Commissioners Azcuna and Bengzon, please raise their hand. (Several Members raised their hand.)

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

The results show 36 votes in favor and none against; the amendment is approved.

MR. SARMIENTO: Madam President, there are still proponents for this section but since it is already past twelve, may I move that we suspend the session until two-thirty this afternoon.

SUSPENSION OF SESSION

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

It was 12:33 p.m.

RESUMPTION OF SESSION

At 2:53 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. SARMIENTO: We are still on Section 14. May I ask that honorable Commissioner de Castro be recognized.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

I have a minor observation on Section 1, page 3, lines 10 and 11, which reads: "There shall be created autonomous regions in Muslim Mindanao . . ." Upon first reading, it will appear that the whole Mindanao is composed of Muslims because "Muslim" is used as an adjective for Mindanao. If the Committee will agree, I would rather change it FOR THE MUSLIMS OF MINDANAO instead of "Muslim Mindanao." So, the provision will read: "There shall be created autonomous regions FOR THE MUSLIMS OF MINDANAO and the Cordillera . . ."

THE PRESIDENT: Is Commissioner Alonto here?

MR. NOLLEDO: Commissioner Alonto is not here but the Committee rejects the amendment, Madam President.

MR. DE CASTRO: If I may explain, Madam President.

THE PRESIDENT: Commissioner de Castro may proceed.

MR. DE CASTRO: As I said, when one reads the provision, it will appear that the whole Mindanao is occupied by Muslims when it is not true. Surigao is not occupied by Muslims; there is no Muslim in Surigao. There is no Muslim in Misamis Oriental, in Bukidnon, in Misamis Occidental. So, it may not appear right when we say "Muslim Mindanao" so I am changing it FOR THE MUSLIMS OF MINDANAO.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: May I explain briefly why the Committee is inclined not to accept the amendment?

MR. NOLLEDO: The Committee has not accepted the amendment.

MR. OPLE: Yes, I am trying to explain why the Committee has not accepted the amendment. With the permission of the Committee, I think "Muslim Mindanao" in this paragraph refers to the old Moro homeland, more or less, defined in the Tripoli Agreement. However, this is now subject to a plebiscite, and Congress will have the power

to designate the areas for the plebiscite in consultation with the leaders of Muslim Mindanao. To say "MUSLIMS OF MINDANAO" rather than "Muslim Mindanao" will be really to delimit the area of autonomy in such a way as to put the whole autonomy in jeopardy as contemplated in this section. But I am glad that the member of the Committee with the greatest competence on this subject has already arrived, Commissioner Ahmad Domocao Alonto, and I would like to yield the floor to him if he is ready, Madam President.

MR. DE CASTRO: Madam President, the fears of the Honorable Ople have no basis because we are only clarifying the areas of Muslim Mindanao. If we put "Muslim Mindanao," it will appear that the whole Mindanao is a Muslim area. I will submit, Madam President.

MR. ABUBAKAR: Madam President.

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: I think there is a different conception and descriptive idea of the word "Muslim Mindanao." The whole Mindanao is not inhabited predominantly by the Muslims. But when we say "Muslim Mindanao," this refers to the part of Mindanao predominantly occupied by the Muslims. That is why to be more colorful or descriptive, when we say "Muslim Mindanao," that means that part of Mindanao predominantly occupied by the Muslims.

Not only is this in the Philippines but also in other countries such as Sri Lanka. We call a part of Ceylon as Ceylonese Ceylon and that is occupied by the Ceylonese, different from the Tamils'. So, when we say "Muslim Mindanao," it means an area predominantly occupied by the Muslims.

MR. DE CASTRO: Will the Honorable Abubakar agree to "MUSLIM-DOMINATED AREAS OF MINDANAO"?

MR. NOLLEDO: The Committee does not accept the amendment because, Madam President, the basis of granting autonomy to a region is not only the historical, cultural, linguistic, ethnic and communal characteristics but also the economic or other aspects.

MR. DE CASTRO: We agree on that. What we do not seem to understand is that when we say "Muslim Mindanao," the word "Muslim" is used as an adjective for the whole Mindanao. We simply state that the whole of Mindanao is Muslim area, which is not. That is why my amendment is "FOR THE MUSLIMS OF MINDANAO" instead of "Muslim Mindanao."

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: May I suggest perhaps a compromise formula. It will be something like this: "There shall be created autonomous regions in THE PREDOMINANTLY Muslim AREAS OF Mindanao" and a comma (.). So, we refer to the area and to the predominance of the population. It is not Muslim-dominated. That is not the idea, but numerically the majority is Muslim.

MR. DE CASTRO: I will agree to that, just to content ourselves and just to be sure that Mindanao is not all Muslim area.

THE PRESIDENT: Commissioner Alonto is recognized.

MR. ALONTO: Madam President, the amendment being proposed does not really alter what is really the meaning of "Muslim Mindanao" because when we read the section in relation to the other sections, it will definitely show that only those areas whose population or inhabitants that have a common historical, cultural, linguistic, ethnic,

communal, economic or other characteristics will vote for the autonomous region.

So, whatever area is not predominantly occupied by inhabitants of the same common historical, cultural, linguistic, ethnic, communal, economic or other characteristics will not vote.

MR. DE CASTRO: There really is.

MR. ALONTO: Without even altering, Madam President, the wordings of the first sentence of this section, that would definitely guarantee whatever the Gentleman has in mind. It might include people or inhabitants that are not within the concept of the definition stated in Section 1.

MR. DE CASTRO: If the Gentleman will please listen, it does not change the meaning of granting autonomous regions to the Muslims in Mindanao. I would only like to correct the impression of the phrase "Muslim Mindanao" because it will appear that the whole Mindanao is a Muslim area. My amendment — "FOR THE MUSLIMS OF Mindanao" — does not affect the cultural, linguistic and ethnic characteristics. It is only for a better understanding of what we intend to make as autonomous regions in Mindanao.

I submit, Madam President.

MR. NOLLEDO: If that is the fear of Commissioner de Castro, why do we not eliminate "Muslim" and use only "Mindanao"?

THE PRESIDENT: What does Commissioner de Castro say?

MR. DE CASTRO: It will change the whole thing, Madam President. It will grant the Misamis Oriental group autonomy. The third presidential candidate, Mr. Canoy, is waiting for that because he is working for a federal state in Mindanao. It will change the whole thing if we take away PREDOMINANTLY MUSLIM AREAS OF Mindanao" or "FOR THE MUSLIMS OF Mindanao."

THE PRESIDENT: What was the recommendation of Commissioner Bacani which was accepted by Commissioner de Castro?

BISHOP BACANI: The recommendation is "IN THE PREDOMINANTLY MUSLIM AREAS OF Mindanao."

MR. DE CASTRO: I agree with that.

BISHOP BACANI: In that case, there will also be a parallel. We will be speaking of areas and not of persons. We speak of areas in the Cordillera and areas "IN THE PREDOMINANTLY MUSLIM AREAS OF Mindanao." I think it clarifies the sense intended by the phrase "Muslim Mindanao."

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: May I ask the Committee a question in connection with the subject at hand?

Madam President, under the limited autonomy now existing in Mindanao mainly inspired by the Tripoli Agreement, there are provinces like Zamboanga del Sur and Zamboanga del Norte that are represented in the autonomous government; and yet in the case of Zamboanga del Sur, if put to the test of predominantly Muslim areas, may I assure you that Zamboanga del Sur will be eliminated. If this is true of Zamboanga del Sur, this is even truer of Zamboanga del Norte. So, if we do not retain "Muslim Mindanao" which has been given this definite meaning in the explanations of the Committee, we will be limiting the areas of the autonomy even more than what now exists contrary to the clear desire of the Constitutional Commission to provide a more meaningful, a more complete and a more substantial economy for the same areas that are now covered by the autonomous

regional government in Mindanao. For that reason, Madam President, as one of the original authors of the resolution adopted by the Committee for creating the two autonomous regions, I believe I cannot support the proposed amendment of Commissioner Crispino de Castro.

Thank you.

MR. DE CASTRO: May I ask a question of the Honorable Ople? I heard him say that there is now an autonomous region in Mindanao because of the Tripoli Agreement. Is that correct?

MR. OPLE: Yes, Madam President.

MR. DE CASTRO: May I know the legislative body in the autonomous region of Mindanao based on the Tripoli Agreement?

MR. OPLE: There is a legislative assembly, and a so-called Lupong Tagapagpaganap.

MR. DE CASTRO: Is that legislative assembly recognized by our present government?

MR. OPLE: Apparently it is recognized, Madam President.

MR. DE CASTRO: I do not believe so; otherwise, Muslim Mindanao must be operating independently now of the Philippines.

MR. ALONTO: Madam President.

MR. ABUBAKAR: May I intervene for clarification?

MR. OPLE: Yes, I want to assert the fact that the autonomous region in Mindanao is recognized by the present government, Madam President. (Applause)

THE PRESIDENT: Commissioner Abubakar is recognized.

MR. ABUBAKAR: Yes, there is an autonomous region now in Mindanao. It is composed of the provinces of Sulu, Zamboanga, Basilan and Zamboanga del Norte. I am not sure if Lanao and Tawi-Tawi are included.

MR. NOLLEDO: Tawi-Tawi is included in Region IX.

MR. ABUBAKAR: This is the Southern Mindanao Autonomous Region; it has a legislative body with a Speaker and is located in Zamboanga. This legislative body drafts laws and resolutions for the Southern Mindanao region. I even know the Speaker personally. He is Mr. Sali Ututalum, Jr., and he resides in Zamboanga and presides over this legislative body. If there is any clarification or any question as to the existence of this body, then many of us do not know the present governmental setup in Mindanao.

MR. ALONTO: Madam President, I have stated from the start of our consideration of this Article on Local Governments that the autonomous region exists now in this country. There is a de facto existence of an autonomous government in what we call now Regions IX and XII. Region IX is composed of the provinces of Tawi-Tawi, Sulu, Basilan, Zamboanga City, Zamboanga del Sur and Zamboanga del Norte, including all the component cities in the provinces. Region XII is composed of the Provinces of Lanao del Norte, Lanao del Sur, Maguindanao, Sultan Kudarat and North Cotabato. This autonomous region has its central governmental quarters in Zamboanga City for Region IX and in Cotabato City for Region XII. In fact, it is stated by Commissioner Ople that it has an executive commission and a legislative assembly.

MR. DE CASTRO: Madam President.

MR. ALONTO: These two regions have been organized by virtue of P.D. No. 1618 of President Marcos, as

amended by P.D. No. 1843.

MR. DE CASTRO: Madam President.

MR. ALONTO: If the Gentleman will bear with me, I will explain to him. That is why I said that there is a de facto autonomous government existing in Mindanao.

MR. DE CASTRO: Madam President.

THE PRESIDENT: May we please allow Commissioner Alonto to finish his remarks before any interruption?

MR. DE CASTRO: Yes, Madam President.

MR. ALONTO: Madam President, this autonomous region is recognized by the present regime for the very reason that the present regime is now in the process of a negotiation with the Moro National Liberation Front. In a way, what we are doing is to give a constitutional basis for the President of this country today to proceed with that negotiation with the Moro National Liberation Front.

THE PRESIDENT: Commissioner Uka is recognized.

MR. UKA: Madam President, not only that. President Corazon C. Aquino has appointed Mr. Albert Tugum as the Chairman of Region IX and Mr. Datu Zakaria Candau as Chairman of Region XII. They are doing their work well right now. So, there are two recognized autonomous regions. They have also a complete regional assembly as the legislative body. So, it is only a matter of putting this in the Constitution.

THE PRESIDENT: So, what is before the body is the proposed amendment on line 11 of Section 1.

Commissioner de Castro is recognized.

MR. DE CASTRO: Madam President, if there is now an autonomous region in Mindanao and if, according to the Honorable Ople, this has the recognition of the central government, what then is the use of creating autonomous regions in Muslim Mindanao and going through the process of a plebiscite and enacting an organic act?

My amendment is simply to clarify the term "Muslim Mindanao." I really did not expect that this will go this far — that it is being placed in the Constitution, that it is a fait accompli and that all we have to do here is say "amen" to the whole thing and if we do not say "amen," they will still continue to be autonomous regions. I insist on my amendment, Madam President.

MR. OPLE: May I provide more information to Commissioner de Castro concerning this matter.

First of all, we have to correct his misimpression that the autonomous regions, such as they now exist in Mindanao, do not enjoy the recognition of the central government. Secondly, may I point out that the autonomy existing now in Regions IX and XII is a very imperfect kind of autonomy. We are not satisfied with the legal sufficiency of these regions as autonomous regions and that is the reason the initiative has been taken in order to guarantee by the Constitution the right to autonomy of the people embraced in these regions and not merely on the sufferance of any existing or future administration. It is a right, moreover, for which they have waged heroic struggles, not only in this generation but in previous eras and, therefore, what we seek is constitutional permanence for this right.

May I also point out, Madam President, that the Tripoli Agreement was negotiated under the aegis of foreign powers. No matter how friendly and sympathetic they might be to our country, this is under the aegis of the 42-nation Islamic Conference. Should our brothers look across the seas to a conclave of foreign governments so that their rights may be recognized in this Constitution? Do they have to depend upon foreign sympathy so that

their right can be recognized in final, constitutional and durable form?

THE PRESIDENT: Commissioner Ople, the consensus here is to grant autonomy to the Muslim areas of Mindanao.

MR. OPLE: Yes.

THE PRESIDENT: The only point is, shall we change the wording of line 11 of Section 1? That is all. The words "Muslim Mindanao" are stated in the committee report. Commissioner de Castro seeks to amend the words. The Committee does not accept, so let us put it to a vote.

MR. OPLE: I am willing to have it submitted to a vote, Madam President.

MR. NOLLEDO: Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Madam President, before we vote on this, the amendment recommended by Commissioner de Castro will be a retrogression because he will be concentrating the autonomy only to the Muslim-dominated areas. The presently constituted autonomous regions consist of Muslim-dominated and Christian-dominated areas where, according to Commissioner Alonto, they live in harmony and love. So, we will be retrogressing; we will be limiting the autonomy to Muslim Mindanao if we will adopt the de Castro amendment, Madam President.

MR. DE CASTRO: Madam President, it is only a clarification of the words "Muslim Mindanao." I did not really expect it to be carried to this extent. It is not a retrogression because we will have a plebiscite in that area. So, if all the Christians there want to have autonomous regions, so what? It will still be the same.

But to say "Muslim Mindanao" means that the whole Mindanao is Muslim populated.

THE PRESIDENT: Yes, that has been stated already, Commissioner de Castro.

May we have the proposed amendment so we can submit it to a vote.

MR. DE CASTRO: As worded, and as amended by the Honorable Bacani, the amendment reads: "There shall be created autonomous regions in THE PREDOMINANTLY Muslim AREAS OF Mindanao."

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I think we use "Muslim Mindanao" here in the sense that we also use "Christian Philippines" to refer to our country in relation to the Asian context. When we use "Christian Philippines," we do not deny the existence of other religious groups. So, I think we should take the term in that context.

Also, we should recognize the fact that there are areas in Muslim Mindanao where several groups of ethnic origins, of ethnic religious language and characteristics harmoniously coexist. We should encourage that kind of social harmony in the region.

Thank you, Madam President.

VOTING

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

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

We request our visitors to please refrain from any demonstration here in the session hall.

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

MR. SARMIENTO: Madam President, may I ask that Commissioner Villacorta be recognized.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Madam President, this is an amendment by substitution to lines 12 and 14 of Section 1. We have distributed copies of the proposed amendment which is cosponsored by the Honorable Ople, Bennagen, Uka, Alonto, Abubakar, Villegas, Sarmiento, Davide, Aquino and Suarez.

As amended, this section will read as follows: "There shall be created autonomous regions in Muslim Mindanao and the Cordillera consisting of provinces, cities and geographical areas SHARING DISTINCTIVE OR UNIQUE historical, cultural, linguistic, ethnic, communal, economic or other characteristics within the framework of the national sovereignty and territorial integrity of the Philippines." So, the amendments are to delete "with common" and substitute it with SHARING DISTINCTIVE OR UNIQUE, and to delete "and respecting."

If the Committee wants an explanation, I would like to offer the justification for this amendment, Madam President.

THE PRESIDENT: The Gentleman may proceed.

MR. VILLACORTA: The justification for using the phrase "SHARING DISTINCTIVE OR UNIQUE" is to highlight the rationale for the granting of autonomy to Muslim Mindanao and the Cordilleras, which have distinctive characteristics that distinguish them from the dominant national community which is predominantly Christian and which make them deserving of the special attention and treatment from the State.

Moreover, this amendment is to emphasize that regional autonomy is reserved only to those regions which have distinctive and unique characteristics, and not to regions which have characteristics common to the dominant national community.

This will reflect the sense of the Commission's not favoring the idea of federalism which would make regional autonomy open to all regions.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: I have an amendment to the amendment, and I am sponsoring this because I have lifted this from a draft presented to me by Commissioner Alonto and was, in turn, suggested by a gentleman who was with us in the 1971 Constitutional Convention, Mr. Michael Mastura. The amendment is: On line 12, we eliminated the phrase after the word "geographical" all the way to the word "characteristics" on line 13, and in lieu thereof, the following: MUNICIPALITIES HAVING COMMON GEOGRAPHIC TIES, HISTORICAL AND CULTURAL HERITAGE, ECONOMIC AND SOCIAL STRUCTURES AND OTHER CHARACTERISTICS. Then continue on to "within the framework of and respecting the national sovereignty . . ."

THE PRESIDENT: What does Commissioner Villacorta say?

MR. BENGZON: May I explain, Madam President?

THE PRESIDENT: The Gentleman may proceed.

MR. BENGZON: From the explanation given to me by the gentleman I just mentioned, the words "linguistic, ethnic, communal" which are already included in the term "historical and cultural heritage." That is all-encompassing and, of course, we retain the words "COMMON GEOGRAPHIC TIES" and "THE ECONOMIC," and add SOCIAL STRUCTURES AND OTHER CHARACTERISTICS. This would simplify the whole sentence and put elegance into it.

MR. VILLACORTA: Madam President, I accept the amendment on condition that instead of the word "COMMON" which would not really reflect the sense behind the granting of regional autonomy, the Honorable Bengzon use DISTINCTIVE.

MR. BENGZON: Commissioner Alonto says "yes," so I accept the amendment.

THE PRESIDENT: Will the Gentleman kindly read again.

MR. BENGZON: A little kibitzer here suggested "COMMON AND DISTINCTIVE."

MR. VILLACORTA: Did Commissioner Bengzon use the word "SHARING"?

MR. BENGZON: No, I did not use the word "SHARING."

MR. VILLACORTA: It will make it more emphatic and representative of the unity that they have if we use the word "SHARING," then "COMMON AND DISTINCTIVE GEOGRAPHIC TIES."

MR. BENGZON: So, instead of using the word "HAVING," maybe it would be more descriptive to use the word "SHARING."

MR. VILLACORTA: Yes, Madam President.

MR. BENGZON: So, the provision will read: "MUNICIPALITIES SHARING COMMON AND DISTINCTIVE GEOGRAPHIC TIES, HISTORICAL AND CULTURAL HERITAGE, ECONOMIC AND SOCIAL STRUCTURES AND OTHER CHARACTERISTICS."

MR. VILLACORTA: That would be all right, Madam President.

MR. BENGZON: It is beautiful.

THE PRESIDENT: Does the Committee need time to consider or does it accept the amendment?

MR. NOLLEDO: The Committee would like to negotiate with Commissioner Bengzon on the use of "geographic areas" because this will affect the Cordilleras.

MR. BENNAGEN: Both the Cordilleras and Mindanao.

MR. BENGZON: The word "TIES" was lifted from the draft that was submitted to me.

MR. ALONTO: Madam President, this is a very basic point and I move that we suspend the session.

SUSPENSION OF SESSION

MR. BENGZON: Madam President, may we suspend the session for two minutes?

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

It was 3:30 p.m.

RESUMPTION OF SESSION

At 3:47 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Acting Floor Leader is recognized.

MR. SARMIENTO: Madam President, may I ask that the honorable Commissioner Bengzon be recognized for his reformulated Section 14.

THE PRESIDENT: Section 1 of Part II.

Commissioner Bengzon is recognized.

MR. BENGZON: Madam President, I am happy to say that we were able to come to an agreement including the intended amendment of Commissioner Davide, so we saved that particular portion. As it is now, the section will read as follows: "There shall be created autonomous regions in Muslim Mindanao and the Cordillera consisting of provinces, cities and MUNICIPALITIES AND GEOGRAPHIC areas SHARING common AND DISTINCTIVE historical AND cultural HERITAGE, economic AND SOCIAL STRUCTURE AND other RELEVANT characteristics within the framework of and respecting the national sovereignty and territorial integrity of the Republic of the Philippines." The last is the Davide amendment.

THE PRESIDENT: So, this becomes a joint amendment of Commissioners Villacorta, Bengzon and others.

MR. BENGZON: Commissioners Villacorta, Davide and this Representation.

MR. NOLLEDO: The Committee gladly accepts the amendment, Madam President.

THE PRESIDENT: Is there any objection to the proposed amendment?

MR. OPLE: Madam President, just one minor point. Do we have to retain "respecting"?

MR. BENGZON: That is the wording of the Committee.

MR. OPLE: Yes, may I ask the Committee to set aside that phrase.

MR. NOLLEDO: The Committee agrees that "and respecting" should be deleted.

MR. OPLE: Thank you very much, Madam President.

MR. VILLACORTA: Madam President.

THE PRESIDENT: Commissioner Villacorta is recognized.

MR. VILLACORTA: Just for the record, the co-authors of my amendment are as follows: the Honorable Ople, Sarmiento, Bennagen, Uka, Alonto, Abubakar, Villegas, Aquino and Suarez.

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

MR. SARMIENTO: Madam President, may I ask that the honorable Commissioner from Cebu, Hilario G. Davide, Jr., be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

I will propose very minor perfecting amendments and one substantial amendment. On line 11, I seek for the deletion of the word "in" before "Muslim" and in its stead, the word FOR; between "and" and "the" before "Cordillera," insert the word FOR and add S to "Cordillera." So, the provision will read: "FOR Muslim Mindanao and FOR the CORDILLERAS consisting of provinces . . ." and so on.

MR. NOLLEDO: The Committee accepts the amendment.

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

MR. DAVIDE: On line 14, after the word "of," I seek for the deletion of "and respecting."

MR. NOLLEDO: It is already deleted.

MR. DAVIDE: So in lieu of "and respecting," insert the following: THIS CONSTITUTION AND SUBJECT TO THE IMPERATIVE TO PRESERVE AND ENHANCE. So, lines 14 and 15 will read as follows: "within the framework of THIS CONSTITUTION AND SUBJECT TO THE IMPERATIVE TO PRESERVE AND ENHANCE national sovereignty and territorial integrity of the Republic of the Philippines."

MR. NOLLEDO: I think the amendment is not acceptable to the Committee, Madam President. If Commissioner Davide would agree, I recommend that it should read: "within the framework of THIS CONSTITUTION and the national sovereignty AS WELL AS territorial integrity of the Republic of the Philippines." The Committee will accept the amendment.

MR. DAVIDE: I have no objection. So, the provision will read: "within the framework of THIS CONSTITUTION and the national sovereignty AS WELL AS territorial integrity of the Republic of the Philippines."

MR. NOLLEDO: The Committee accepts the amendment, Madam President.

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

MR. SARMIENTO: Madam President, may I ask that Commissioner Azcuna be recognized.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Madam President, my amendment has already been taken up and approved.

Thank you, Madam President.

MR. NOLLEDO: I thank Commissioner Azcuna.

MR. SARMIENTO: Madam President, before we vote on the whole Section 1, now Section 14, may I ask Chairman Nolleto to read Section 1, as amended.

MR. NOLLEDO: May we ask Commissioner Bennagen to read Section 1.

MR. BENNAGEN: I will read it on behalf of the Chairman. "There shall be created autonomous regions FOR Muslim Mindanao and FOR the CORDILLERAS consisting of provinces, cities, MUNICIPALITIES and GEOGRAPHIC areas SHARING common AND DISTINCTIVE historical AND cultural HERITAGE, economic AND SOCIAL STRUCTURE AND other RELEVANT characteristics within the framework of THIS CONSTITUTION and the national sovereignty AS WELL AS territorial integrity of the Republic of the Philippines."

VOTING

THE PRESIDENT: As many as are in favor of this particular section, as amended, please raise their hand. (Several Members raised their hand.)

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

The results show 28 votes in favor and none against; Section 1, as amended, is approved.

MR. SARMIENTO: For Section 2, now Section 15, may I ask that the honorable Commissioner Foz be recognized.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: In our amendment to the original Section 2 under the autonomous regions, now Section 15, there will be a transposition and some additions. So, I will just read the section, particularly the first paragraph, as sought to be amended. It shall read: THE CONGRESS SHALL IN CONSULTATION WITH MULTISECTORAL BODIES IN EACH AUTONOMOUS REGION ENACT AN ORGANIC LAW DEFINING THE BASIC STRUCTURE OF THE REGIONAL GOVERNMENT. IT SHALL CONSIST OF THE REGIONAL EXECUTIVE DEPARTMENT HEADED BY AN ELECTIVE CHIEF EXECUTIVE AND A REGIONAL LEGISLATIVE ASSEMBLY. THE ORGANIC ACT SHALL PROVIDE FOR SPECIAL COURTS WITH FAMILY AND PROPERTY LAW JURISDICTION WITHIN THE REGION EXCEPT OVER ITS CHRISTIAN INHABITANTS SUBJECT TO THE APPEAL PROCEDURES PROVIDED BY NATIONAL LAW AND THE PROVISIONS OF THIS CONSTITUTION.

We would like to get the response of the Committee to the provision as sought to be amended.

THE PRESIDENT: What does the Committee say?

MR. NOLLEDO: Madam President, there is a proposed amendment to this section by Commissioner Ople which covers practically the entire section. So, I am now at a loss on whether to accept the amendment or not until the Ople amendment is considered. May I also observe, Madam President, that the words "APPEAL PROCEDURES" would seem to be irrelevant. With due respect to Commissioner Foz, we are talking only of jurisdiction here; besides the procedural rules on personal law and property law jurisdiction of the special courts may be provided for in the Rules of Court or in other special rules. So, I would prefer not to mention "APPEAL PROCEDURES."

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Also in the suggested Foz amendment, reference is made to the exception of Christian inhabitants from the family and property law jurisdiction. There would be other groups; non-Christians and non-Muslims would be part, and may be some compromise description of this mixed population should be adopted instead of specifying only Christian inhabitants.

MR. FOZ: I would be amenable to any suggestion in that regard. But I think there has to be mention of appeal because the family and property laws that may be provided or enacted by the legislative assembly of the region have to be consistent with national law and the pertinent provisions of the Constitution.

MR. NOLLEDO: Will Commissioner Foz be satisfied if the Committee states that it is its intention that the Rules of Court, as promulgated by the Supreme Court in accordance with the provisions on judicial power of the Constitution, will govern? That is the sense of the Committee. That is why if Commissioner Foz will delete the

portions on procedural appeal, the Committee will be very receptive to his amendments. And if he can harmonize his amendments with those of Commissioner Ople, the Committee will likewise seriously consider the amendment.

MR. FOZ: Madam President, we would like to hear the amendment of Commissioner Ople. I understand that Commissioner Davide also has some amendments that have relevance to this section, Section 15.

MR. NOLLEDO: May we call upon Commissioner Ople, Madam President?

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

This is an amendment proposed by Commissioners Rama, Nolledo, Davide, Bennagen, Alonto, Villacorta, Azcuna and this Representation. The amendment reads: "The Congress shall enact an Organic Act FOR EACH AUTONOMOUS REGION TO BE INITIALLY DRAFTED BY A REGIONAL CONSTITUTIONAL COMMISSION TO BE NOMINATED BY MULTISECTORAL BODIES AND APPOINTED BY THE PRESIDENT."

Then, on some stylistic changes in what follows for brevity and simplification, all recommended by Commissioner Rama, it reads: "THE ORGANIC ACT SHALL DEFINE THE BASIC STRUCTURE OF GOVERNMENT FOR THE REGION CONSISTING OF THE EXECUTIVE DEPARTMENT AND LEGISLATIVE ASSEMBLY BOTH ELECTIVE AND REPRESENTATIVE OF THE CONSTITUENT POLITICAL UNITS. The organic act may likewise provide for courts with personal law and property law jurisdiction consistent with the provisions of this Constitution on Judicial Power."

MR. NOLLEDO: Madam President, some amendments of Commissioner Foz can be incorporated in the Ople amendment.

MR. FOZ: Madam President, may we ask some questions of Commissioner Ople with regard to his amendment?

THE PRESIDENT: The Gentleman may proceed.

MR. FOZ: Under the amendment of Commissioner Ople, there would first be a regional Constitutional commission that would draft the organic act for the region. Once this is drafted, the organic act shall be submitted to Congress for its consideration.

MR. OPLE: Yes, Congress has the final say.

MR. FOZ: But the Congress will not be bound in any respect by such a draft organic law.

MR. OPLE: The effect will be persuasive on Congress, Madam President.

MR. FOZ: Does the Gentleman not think that if the draft organic law prepared by the regional constitutional commission contains certain radical ideas or provisions, and if Congress does not approve of such radical ideas or provisions, there would be some kind of a frustration or letdown on the part of the multisectoral bodies who would be represented in that commission, and that this would have some adverse effect on whatever Congress will finally approve as an organic act?

MR. OPLE: Yes, I suppose we have to presume, just like in the case of other bodies, the good faith, intelligence and regularity of the constitutional commission that will be appointed, including the intelligence to know what is attainable. Therefore, that is a risk that I do not wish to deny can be present. It is very much offset by the prospects of the popular response to this act of initiative that is granted to the inhabitants of the region through

their representatives who will be appointed.

MR. FOZ: Since there would be practically two stages in the enactment of such an organic act or law, would it not be more convenient for Congress to be directly vested with the authority to proceed and draft, and finally enact such an organic law after consultations with multisectoral bodies in the region? After all, the Congress is not expected to draft it without consultations. That is a very express provision, a requirement in Section 15, that Congress shall proceed only in consultation with the multisectoral bodies in the region. So, it would be a roundabout way to first authorize the setting up of a regional constitutional commission whose work, after all, would have to fall onto the lap of Congress which will have the final authority to pass such a law.

MR. OPLE: Yes, Madam President. The idea is to put the stamp of authentic participation of the autonomous region right upon the act of creation; and while the Congress has the power to pass an organic act, there is no reason why the autonomous regions should not be given the privilege of participating in their own creation from the beginning by drafting the organic act for the consideration and approval by the Congress. May I submit that while Congress is in no way barred from introducing any changes that it will consider necessary to reflect the national popular will, the process of regional leaders themselves including multisectoral representatives drafting an organic act for the consideration of Congress falls in place as a very symbolic act dramatizing the principle behind autonomy.

MR. NOLLEDO: Madam President, may I add to Commissioner Ople's statement? Under the Ople amendment, the consultation with multisectoral representatives is not prohibited. Even the constitutional commission created under the Ople amendment can conduct the consultation before it actually drafts the organic act for the region.

MR. OPLE: There is nothing here to impede any manner and degree of consultation with the people, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President. May we address a few clarificatory questions to the honorable proponent?

MR. OPLE: Very gladly, Madam President.

MR. SUAREZ: Thank you.

If I understand the thrust of Section 2, as proposed, it contemplates two legislative acts: one, the organic act; and two, the act preceding the organic act. I am referring to the establishment and organization of what the Gentleman calls a regional constitutional commission. Is our understanding correct in this regard, Madam President?

MR. OPLE: Yes, Madam President, except that the act of drafting the organic act at the regional level is mainly in aid of legislation by Congress.

MR. SUAREZ: But it is a preparatory act to the enactment of the organic act or charter.

MR. OPLE: Yes, Madam President.

MR. SUAREZ: So, the Gentleman is not contemplating under this provision that the regional constitutional commission would be created by this Constitution?

MR. OPLE: The power is vested in the President of the Philippines to appoint.

MR. SUAREZ: On the appointment in the President, but not in the constitution of the regional constitutional

commission, or would it be left to Congress?

MR. OPLE: I would rather leave that to Congress. I also assume that in the process of drafting the organic act at the regional level, the process of interaction between Congress or the leaders of Congress and the regional commission shall have already taken place.

MR. SUAREZ: Thank you.

Would the Gentleman take into account the proposal of Commissioner Foz, because it is not clearly stated in this proposal?

MR. OPLE: Yes, Madam President.

MR. SUAREZ: Thank you.

MS. QUESADA: Madam President.

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: I would like to seek some clarification from Commissioner Ople. In previous discussions, I often hear that what we put in the Constitution are supposed to be provisions that will be good for many years. I am just bothered by this particular section because it is stated here that this will only be initially drafted by a regional constitutional commission to be nominated by multisectoral bodies and appointed by the President, et cetera. But will this particular section serve any purpose after this would have been enacted?

MR. OPLE: Yes, the principle is established that in the future beyond the autonomy granted to two specific regions now, if there is an application for such regional autonomous status, the same principle will be observed.

MS. QUESADA: So, this is a principle or a guideline that needs to be retained here even after Congress shall have enacted an organic act?

MR. OPLE: Yes, in the indefinite future when more regions with common and distinctive ethnic, cultural, economic and other characteristics decide to seek autonomous status, then the same principle will apply.

MS. QUESADA: So, we will not leave it to Congress to provide for these details?

MR. OPLE: Actually, Congress will not be barred from providing for a law that will spell out the details of this principle, Madam President.

MS. QUESADA: Thank you.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Will Commissioner Ople yield to two questions, Madam President?

MR. OPLE: Gladly, Madam President.

BISHOP BACANI: First, on the authority of the draft to be submitted by the regional constitutional commission, will it be much more than the authority of, let us say; the draft constitution of the UP that was given to us? Or will it be at par with that draft constitution as regards its binding force?

MR. OPLE: We say that Congress has the final say but in the nature of what Commissioner Bernas this morning called the political dynamics of the situation, I would assume that Congress would put the utmost weight on this draft organic act that will be submitted to them by the regional constitutional commission.

BISHOP BACANI: The second question that I would like to ask for my enlightenment so I can vote is: In Section 7 of the provisions on the autonomous regions, it is stated:

The Congress shall, within one year from the election of its Members, define the territorial jurisdiction of, and pass the Organic Acts, for the autonomous regions in Muslim Mindanao and the Cordilleras.

Pushing back the actual passage of the organic act, will it not, therefore, mean that if we accept the Gentleman's amendment, there will be a greater impatience generated in the regions because then the autonomous regions will not have been constituted yet?

MR. OPLE: No, Madam President. I want to thank Commissioner Bacani for calling the attention of the body to that. In the last section, there is a timetable set so that within one year of the election of the Members of the next Congress, an organic act for the autonomous regions will be passed. I think this is well within the deadline, Madam President. If Congress know that within one year from the time of their election they would have to pass an organic act, I am sure that steps would be taken in the spirit of prudence and responsibility to insure that this regional body will be functioning so that the output can be delivered according to such a schedule as to help Congress comply with the deadline of one year.

BISHOP BACANI: Just an additional question, Madam President.

Will the same purpose that is sought to be achieved by such a regional constitutional commission not be achieved by something less formal? It can be a convention, but not necessarily a regional constitutional commission, which will draft suggestions for the charter that will be approved by Congress. Does the Gentleman not think that that would be sufficient?

MR. OPLE: I think that can also be allowed but as to being sufficient, I have my misgivings about that. In fact, when representatives of the autonomous regions are called to participate in the very act of their creation by drafting an organic act, they are exalted to the level of a dignity that will never be attained through informal consultations alone.

BISHOP BACANI: But, Madam President, my fear is that there may be some decisions where the difference in the number of votes was very slight, like the decision on adopting a bicameral or unicameral form of legislature. I was told that officially there was only a difference of two votes. When it becomes an act of a regional constitutional commission, people may really expect that something like that will also be approved by Congress. But later on, Congress may decide otherwise. So, the level of expectation may be brought very high when the proposals come from a regional constitutional commission, while a less formal convention of multisectoral bodies may actually be able to propose effectively without, at the same time, unnecessarily raising the expectations at a level which cannot be met.

MR. OPLE: Just one brief reply to that, Madam President. I visualize the situation by that time as being one where Mindanao and the Cordillera have their own representatives. Members of the House of Representatives and Members of the Senate will then be in close touch all the time with the leadership and membership of both Houses. Because of this close rapport, I think we can be sure that the level of attainability of a draft organic act prepared at the regional level will have been very much improved and the same representatives and senators representing these regions will make sure that there are very few gaps in the perceptions of what can be attained as the final output in terms of an organic act.

BISHOP BACANI: Thank you very much, Madam President.

THE PRESIDENT: The Chair believes that the subject has been sufficiently discussed.

MR. NOLLEDO: The Committee, Madam President, is asking for a suspension of the session to consolidate the amendments.

MR. SARMIENTO: Madam President.

THE PRESIDENT: The Acting Floor Leader is recognized.

MR. SARMIENTO: Commissioner Nolledo requests a suspension of session to harmonize the Foz amendment.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended for a few minutes, and will Commissioner Foz please confer with the Committee for his amendment.

It was 4:18 p.m.

RESUMPTION OF SESSION

At 4:53 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

The Acting Floor Leader is recognized.

MR. SARMIENTO: Madam President, Commissioner Foz and Commissioner Ople have harmonized their amendments.

May I ask that Commissioner Nolledo read the reformulated section.

MR. NOLLEDO: Madam President, may I ask Commissioner Bennagen to read the amended section.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

We have come to a happy agreement on the formulation of Section 2 and it reads: "The Congress shall enact an Organic Act FOR EACH AUTONOMOUS REGION WITH THE ASSISTANCE AND PARTICIPATION OF A REGIONAL CONSULTATIVE COMMISSION. THE ORGANIC ACT SHALL DEFINE THE BASIC STRUCTURE OF GOVERNMENT FOR THE REGION CONSISTING OF THE EXECUTIVE DEPARTMENT AND LEGISLATIVE ASSEMBLY BOTH OF WHICH SHALL BE ELECTIVE AND REPRESENTATIVE OF THE CONSTITUENT POLITICAL UNITS. THE ORGANIC ACT MAY LIKEWISE PROVIDE FOR SPECIAL COURTS WITH PERSONAL, FAMILY AND PROPERTY LAW JURISDICTION CONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION AND NATIONAL LAW. THE CREATION OF THE AUTONOMOUS REGIONS SHALL BE APPROVED IN A PLEBISCITE BY MAJORITY OF THE VOTERS CAST."

MR. PADILLA: Madam President.

THE PRESIDENT: What happened to the other paragraph amended by Commissioners Azcuna and Bengzon?

MR. BENNAGEN: We approved that earlier.

MR. NOLLEDO: Madam President, but there is a committee amendment on . . .

THE PRESIDENT: This was approved already as is.

MR. BENNAGEN: Yes, I think we can read that later on when we approve the whole section.

MR. NOLLEDO: That is part of Section 2, Madam President.

MR. BENNAGEN: This is a continuation of the first paragraph.

MR. NOLLEDO: What has been read, Madam President, is the first paragraph of Section 2. The second paragraph will be read by Commissioner Bennagen.

MR. BENNAGEN: "THE CREATION OF THE AUTONOMOUS REGION SHALL BE EFFECTIVE WHEN APPROVED BY MAJORITY OF THE VOTES CAST OF THE CONSTITUENT UNITS IN A PLEBISCITE CALLED FOR THE PURPOSE PROVIDED THAT ONLY PROVINCES AND CITIES VOTING FAVORABLY IN SAID PLEBISCITE SHALL BE INCLUDED IN THE AUTONOMOUS REGION."

THE PRESIDENT: That was approved already.

MR. BENNAGEN: Yes, Madam President.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: With regard to the phrase "SPECIAL COURTS WITH PERSONAL, FAMILY AND PROPERTY LAW JURISDICTION," I would propose the deletion of this sentence for the following reasons: First, our approved Article on the Judiciary does not provide for these special courts although the Supreme Court is authorized to establish inferior courts. Second, within these autonomous regions, the chances are that the judge is a Muslim in the Muslim region or a native lawyer judge, say, in the Cordilleras. In a litigation, the Muslim plaintiff, usually represented by a Muslim lawyer, and the Muslim defendant, also represented by a Muslim lawyer, can very well inform the Muslim judge or even the Christian trial judge in control of the litigation of the proper law applicable. The regional trial court in that autonomous region or province — sometimes there are several regional trial courts in one province — may decide the case by applying the personal law of the Muslims or of the Cordilleras that is properly applicable. My point is that while former President Marcos issued one presidential decree creating this special Muslim Shari'a Court, he also issued another decree on Muslim personal laws. I understand that there have been efforts by Muslim lawyers to get some instruction or education from foreign lands; there was even an attempt to have Muslim lawyers take bar examinations given by the Supreme Court, but I understand no one passed the examinations. What I am trying to say is that I recognize that the Muslim or Islamic Shari'a law will be applicable to a litigation involving their personal law. But we do not perhaps need to create special courts because this can be taken care of by the regional trial courts. The only point is that the Muslims in Mindanao want their personal law respected and enforced. This can be done within our judicial system, without the need of creating and maintaining special courts. Oftentimes, Muslim conflicts may be decided by settlement through peaceful negotiation, maybe through the intervention of their datu. The very few litigations may not reach the courts. But if they reach the courts, why should we recognize, legalize, validate and even constitutionalize special courts created by two decrees of the past regime which may not be necessary?

I understand, Madam President, that the Tripoli Agreement under Section 14 (3) says that in the areas of autonomy, the Muslims shall have the right to set up their own courts which implement the Islamic Shari'a law, and shall be represented in all courts, including the Supreme Court, et cetera. We will recognize the Islamic Shari'a law as applicable to a litigation between Muslims. But should we continue with these special courts when, after all, even in cases of litigation between Filipinos and foreigners and there being conflict of laws, our own courts decide by applying the proper law; and in the absence of positive statutory law, the customs are always a

source of law that will apply to a given litigation?

So, if it is acceptable especially to Commissioner Alonto, my proposed amendment is that while we respect the Islamic law on litigations affecting the Muslims in Muslim Mindanao, is it absolutely necessary that we have special courts for the application of such law?

As I said, I suppose the judge in these Muslim provinces will be a Muslim who knows Muslim law. Assuming he is a Christian judge, the Muslim lawyers of the litigants can present evidence as to the proper law applicable. The regional trial court or the provincial trial court may make a decision by applying and respecting the Islamic Shari'a law.

MR. RAMA: Madam President, may I ask Commissioner Padilla a few questions.

THE PRESIDENT: Commissioner Rama may proceed.

MR. RAMA: The apprehension of the Gentleman also covers the possible complications if we have to set up courts in the country, particularly when the appeals are made, so that there would be two sets of rules which would confuse the Court of Appeals and the Supreme Court. Is that part of the Gentleman's apprehension?

MR. PADILLA: I suppose the procedural law, the Rules of Court, should apply. But with regard to substantive law — what they call personal law like the laws on marriage, divorce, there is no prosecution for bigamy because Muslim law permits more than one wife or some customary law on succession — I do not know whether there is recognition, for example, of primogeniture. These portions of our Civil Code will give way to the Islamic Shari'a law. But the court that will decide this issue between Muslim litigants need not be a special court. I think it can be taken care of by the regional trial courts. I would say that most probably the regional trial judge in a province within the Muslim autonomous region will be a Muslim Filipino.

MR. RAMA: Does the Gentleman know that there are already existing special courts taking special examinations related to the Muslim law?

MR. PADILLA: That is my information, Madam President. President Marcos issued these two presidential decrees; one creating the special courts and another issuing a Muslim code of law, which is quite extensive — perhaps almost one-half of our Civil Code — and which very few could understand. But the law applicable can always be presented to the regional trial judge for its proper application.

MR. RAMA: With the indulgence of the Chair, Commissioner Uka would like to provide information of the actual Muslim courts that are now existing and how they operate.

THE PRESIDENT: Commissioner Uka is recognized.

MR. UKA: Madam President, I wish to inform the body that as of this moment, the special courts known as Shari'a Courts are already established in the Muslim provinces. There are two kinds of judges: the executive judges and the municipal judges of the Shari'a Courts. Their jurisdiction covers Muslim personal laws on family and property. Those judges already appointed took seminars conducted under the supervision of the Supreme Court. And many of them are my former students. Before they are appointed judges, they have to take seminars and some of them were sent to Cairo, Egypt to study the Islamic law or Shari'a. These is Judge Corocoy Moson, who is now in Cotabato City as Shari'a executive judge. There is also one executive judge in Marawi, another one in Zamboanga City and the others are Shari'a municipal judges in some municipalities. These courts were created because of the peculiar laws or provisions under the Islamic jurisprudence or Shari'a. That is why during the meeting of the Committee on the Judiciary, I even asked what may happen if a case is appealed from the special Shari'a Courts to the Supreme Court or the Court of Appeals, as the case may be. How will the Supreme Court

decide or resolve it when there is no Muslim justice in the Supreme Court? Of course, the only thing that could possibly be done is to appoint a Muslim justice in the Supreme Court because through all the years from the Spanish time up to the present, there was not a single Muslim justice in the Supreme Court, not because there are no qualified Muslim lawyers but I really do not know why. Maybe a Muslim may be appointed justice this year, maybe next year, maybe never. So, there are still some important things to be done to make the Shari'a Courts functional. The Supreme Court in the meantime postponed the giving of the so-called Shari'a mini-bar examinations conducted by it but many are now preparing for the examinations. They call it mini-bar which means small, like minimized, mini-skirt, and things like that. So, there is really a reason for the creation of the so-called Shari'a Courts in the Muslim areas of the Philippines. In fact, there is already issued by decree a personal code of the Muslims which is being applied by these Shari'a Courts. What should be done in case this provision on Shari'a Courts be deleted? What shall we do with those Shari'a Courts already established? And what about the mini-bar examinations to be conducted by the Supreme Court? Shall we order the Supreme Court to stop the examinations and shall we abolish these special courts? I was about to stand up earlier to propose an amendment to the amendment so that the provision will read: "The Organic Act shall likewise provide for SPECIAL courts with personal law and property law jurisdiction within the autonomous region consistent with the provisions of this Constitution on Judicial Power." I would change the word "may" to SHALL to make it mandatory. But that would depend upon the wish or decision of the body as expressed by the Committee.

MR. NOLLEDO: The Committee accepts the amendment.

MR. UKA: What about the amendment of my good friend, Commissioner Padilla?

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: May we inquire from Commissioner Uka whether these appointments were done during the Marcos regime or during the Aquino administration?

MR. UKA: Let me refresh my memory. Some were appointed during the past administration and some were appointed to fill some of the vacancies during the present administration.

MR. PADILLA: As to the question of what will happen to these judges, they can always be the regional trial judges or the municipal trial judges.

MR. ALONTO: Madam President.

THE PRESIDENT: Commissioner Alonto is recognized.

MR. ALONTO: The suggestion of Commissioner Padilla is really quite something to think about. However, the amendment of this section as already read to the Gentleman has provided for all that he has in mind. The last sentence reads: "The Organic Act may likewise provide for SPECIAL courts with FAMILY and property law jurisdiction consistent with the provisions of this Constitution AND NATIONAL LAW."

So, the organization of special courts is actually an implementation of that basic and essential reason why we are granting autonomy to these particular regions which, as we have stated in Section 1, is the nonviolation of historical, cultural, linguistic, ethnic, communal, economic and other characteristics. In order to implement this and strengthen the basis or reason why we should, as we have done, grant autonomy to these regions, those particular cultural differences between the cultural minorities and the cultural majority in this country should be implemented. One of the most important differences between the dominant cultural community and the cultural minority in this country is the law that governs personal, family and property relations between the different inhabitants within that cultural community. So, how can we give reality to the acceptance of cultural differences

between the cultural inhabitants in this country if we do not provide for the government instrument to implement those differences?

This is very basic in the creation of autonomous regions for if we do not provide for that, it is only autonomy in mouth and not in reality.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I would like to support the position of Commissioner Alonto. I think the setting up of special courts is giving due recognition to a viable legal system. This is long recognized by the dominant western-based legal system. I think, in the long run, it will enrich our national law.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I would like to give some information. I think there is a serious problem of qualified personnel for appointment as judges as well as for Muslim lawyers who will be qualified to practice before these special courts that we are speaking about. This is indicated by the results of a special bar examination conducted by the Supreme Court, especially for Muslims who will practice, as well as those who are going to be appointed judges of the Shari'a Courts. I remember that in one special examination, which is I think the only examination given by the Supreme Court for such special Muslim examinees, there were, I think, about 75 examinees and only 17 passed the bar exam. In other words, not all Muslims are qualified to be appointed judges of the Shari'a Courts perhaps for lack of adequate preparation and knowledge of this Shari'a law. It is not as simple as we think it is. I think Commissioner Alonto will bear us out on this.

MR. UKA: Madam President, that is precisely why they are given special seminars, because there is the provision of the Islamic law on property and personal rights.

MR. FOZ: It is such a complicated system.

MR. UKA: The Supreme Court gives them some seminars. As a matter of fact, those who passed really did very great work in the seminars, and some of them were even sent to Cairo by the government.

MR. FOZ: For special training, yes.

MR. UKA: Those who passed with good grades were sent there, and when they came back, they became executive judges. Again, let me cite Corocoy Moson, and all the others who passed that examination. This year, as I said, there will again be a mini-bar examination to be conducted by the Supreme Court. It was supposed to be given last December, but then they had to postpone it. And many are now actually preparing for that.

MR. FOZ: Madam President, because of that serious shortage of qualified personnel even for practice before the Muslim courts, I think it would be also a little inconceivable for Christian lawyers of the regular courts — we are speaking of the regular courts — to handle special questions involving the Shari'a law. It is really out of the question; it is impossible. If most of the Muslims themselves are not qualified to be appointed judges or even to practice Muslim law before the Muslim courts, it would be really quite difficult for judges of regular courts, let us say, of the RTCs, to apply the Shari'a law. It would take several months and years of training.

MR. UKA: Madam President, Commissioner Padilla posed a nice and beautiful question: "Suppose the litigation is between a Muslim and a Christian?" What does the Committee say about that?

MR. ALONTO: When the litigation is regarding a question that could be resolved by a national law, naturally the national law will apply.

MR. UKA: That is what I was going to answer.

MR. ALONTO: But this is a case where the persons involved are all belonging to the same ideological culture; both litigants are Muslims.

MR. UKA: In other words this is only a special court for Muslims to solve the problem of property and personal laws.

MR. ALONTO: With regard to what Commissioner Foz said, I would like to invite the Commissioner's attention to the provision which says: "The Organic Act may likewise provide for special courts." But with this provision, the implementation is going to take time, and in the meantime, we would have to provide for qualified people to man those special courts.

THE PRESIDENT: So the matter can be left to Congress. There should be no quarrel about that.

MR. ALONTO: Yes, so why are we fighting over this?

MR. UKA: I see. Now, what happens to my amendment which is to use SHALL instead of "may"?

MR. ALONTO: It is accepted by the Committee.

MR. NOLLEDO: The Committee has accepted that amendment.

MR. ALONTO: We are mandating Congress to provide for a special court.

MR. MAAMBONG: Madam President.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Before we vote on these amendments, may I seek clarification from either Commissioner Alonto or Commissioner Uka? I understand that this codification of Muslim personal laws was done to allay the Muslim Filipino's feeling of alienation from the country's cultural mainstream. As a matter of fact, this decree provided for the formal codification of Muslim personal laws based on its adat (customary) and Shari'a (religious) laws. My first question of Commissioner Alonto is this: Does the Commissioner find a necessity in the future of also codifying the Muslim criminal laws?

MR. ALONTO: Preliminarily I would like to inform the Commissioner that I myself have not read this book on Muslim personal laws authored by President Marcos, not believing in whatever he has done because he deceived the Muslims in this country.

But there is a provision here which directs the legislative assemblies of the autonomous regions to codify their customary or local laws.

MR. MAAMBONG: In other words, in the future there is the possibility that there will be a code of Muslim personal laws to suit the Muslims and a code of Muslim criminal laws?

MR. ALONTO: Not only a possibility, but it is a mandate on the legislative assemblies of autonomous regions. That is the main reason for their being.

MR. MAAMBONG: Yes. I would like to address my next question, perhaps, to Commissioner Bennagen. Would there be a need, to the Commissioner's knowledge, of also codifying the personal and criminal laws for the Cordillera?

MR. BENNAGEN: Not only for the Cordillera but for all other indigenous communities in the country. As a matter of fact, there is an ongoing study at the UP College of Law being conducted by a team of lawyers and anthropologists to codify existing laws among indigenous communities as well as lowland ethnic laws so that eventually they shall be recognized in their own terms as part of the national law.

MR. MAAMBONG: Thank you. I think the Commissioner's answers will help us decide on this issue.

MR. BENNAGEN: The idea is to grant this equality that they deserve.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: What we need is integration with equality, not so much stress on peculiarities that are accidental within the nation and the Filipino people. We recognize the right to religious freedom; we recognize the customary law in the absence of statutory law; we recognize that in a litigation between Muslim brothers, the Islamic Shari'a law should be applied. Commissioner Foz says it is very hard for a judge in the Regional Trial Court to decide a litigation that involves the personal or family relations among Muslims. I do not think that is correct. As long as the issues are correctly stated and presented and the law applicable is placed in issue clearly, then a good judge can properly decide the issue. He need not be a Muslim to apply the proper law. But what I am saying is, within these provinces that will constitute, say, Muslim Mindanao, chances are that the judges will be Muslim Filipinos, so there is no need for special courts. But even assuming that he be a Christian judge, if he acts as he should with impartiality and with honesty applying the proper Islamic Shari'a law, then there will be justice and recognition of the rights of the Muslim litigants.

What I am trying to stress is, in my opinion, there is no need to multiply the courts. I am not denying the fact that our Muslim brothers must have justice in accordance with their Islamic Shari'a law, especially on family rights. But must it be done by special judges and special courts?

Madam President, in conflict of laws, a municipal court — what I mean by municipal court is a domestic court — may not be fully aware of the foreign law applicable but if that law is alleged and proven, and if the law is applicable, the local court should adopt the foreign law applicable as part of the municipal law. And when there is a conflict of laws, justice demands that the proper law in accordance with the rules of private international law be applied but it need not be applied by a foreign judge; it can be applied by our own judge, our own courts.

And this question should not be made part of the Constitution. The Article on the Judiciary says our judicial system is vested in the Supreme Court and other lower courts that may be created by law. But here we are preempting or we are placing a priori the requirement of a special court which should be left to Congress rather than constitutionalizing the decrees of President Marcos which not only would recognize their existence and validity but would raise them to a higher category. I do not think there is necessity for that.

That is the point of my amendment. I want to make it clear that I am not against Muslim autonomy, particularly the application of proper personal law on litigations among them, but that can be applied within our judicial system.

MR. UKA: Madam President.

THE PRESIDENT: The Commissioner may proceed.

MR. UKA: In order to implement the nice suggestion of my friend, Commissioner Padilla, why do we not require the Shari'a and other laws to be part of the curricula of the colleges of law in this country? In that way every lawyer or would-be lawyer will be able to know what is Shari'a law and other customary laws so that nobody will

be ignorant about them. If we can add to our legal curricula international law or other laws for that matter, why could we not integrate also this Muslim law and other customary laws? They do this in Indonesia where they have what they call "unity in diversity."

THE PRESIDENT: Thank you. That would be submitted to the Supreme Court for whatever action it may deem proper to take.

Now, the Chair thinks there has been too much time already consumed on this question of whether or not to have special courts.

MR. BENNAGEN: Just one sentence, Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Thank you, Madam President.

I think meaningful autonomy demands that the juridical processes should be given full play in the autonomous regions, and to be able to do that, we should allow the setting up of special courts to complement those other processes and structures that will be set up later on.

Thank you.

THE PRESIDENT: Just to refresh ourselves: The Committee had accepted the Ople amendment in Section 2. We will vote first on the proposed amendment of Commissioner Padilla.

MR. RODRIGO: Madam President, on the Ople amendment as revised, may I propound some questions?

THE PRESIDENT: Commissioner Rodrigo may proceed.

MR. RODRIGO: In the Ople amendment as revised, the first four lines of Section 2 read: "THE CONGRESS SHALL ENACT AN ORGANIC ACT FOR EACH AUTONOMOUS REGION WITH THE ASSISTANCE AND PARTICIPATION OF A REGIONAL CONSULTATIVE COMMISSION." There is no provision here on how this consultative commission will be created, how it will be constituted. Does not the Commissioner think that there should be such a provision?

MR. OPLE: Madam President, in the original form this was going to be a constitutional commission whose members shall be nominated by multisectoral bodies and appointed by the President. Now, I have complied with the wishes of other proponents and some members of the Committee to reduce the level of participation in drafting the organic act at regional level from a constitutional commission to just a consultative commission, the understanding being that Congress will create this commission.

MR. RODRIGO: Does not the Commissioner think that it should be spelled out that it will be created by Congress?

MR. OPLE: Yes, in compliance with the Commissioner's desire, we may reinstate the clause that was lost earlier. Will Commissioner Bennagen read that?

MR. BENNAGEN: It reads: "WITH THE ASSISTANCE AND PARTICIPATION OF A REGIONAL CONSULTATIVE COMMISSION WHOSE MEMBERS SHALL BE COMPOSED OF MULTISECTORAL REPRESENTATIVES TO BE APPOINTED BY THE PRESIDENT."

MR. RODRIGO: That is better. Now we know how it is going to be constituted.

MR. OPLE: Yes, I accept the amendment and so I believe does the Committee.

MR. RODRIGO: Thank you.

MR. NOLLEDO: The Committee accepts the amendment.

THE PRESIDENT: Will Commissioner Ople please read the first paragraph of Section 2 which is to be submitted to a vote?

MR. OPLE: ". . . COMPOSED OF MEMBERS WHO SHALL BE NOMINATED BY THE MULTISECTORAL BODIES AND APPOINTED BY THE PRESIDENT."

MR. NOLLEDO: No, it should read: "THE CONGRESS SHALL ENACT AN ORGANIC ACT FOR EACH AUTONOMOUS REGION WITH ASSISTANCE AND PARTICIPATION OF A REGIONAL CONSULTATIVE COMMISSION COMPOSED OF MULTISECTORAL REPRESENTATIVES APPOINTED BY THE PRESIDENT."

MR. OPLE: Yes. Shall we settle on that final phrasing?

THE PRESIDENT: Is that accepted by the Committee?

MR. NOLLEDO: The Committee accepts the amendment.

MR. RODRIGO: I think the first formulation by Commissioner Ople is better: "COMPOSED OF MEMBERS NOMINATED BY MULTISECTORAL BODIES AND APPOINTED BY THE PRESIDENT."

MR. OPLE: With the agreement of the Committee, may I suggest that we accept this amendment?

FR. BERNAS: Madam President, will the Committee entertain another modification?

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I propose APPOINTED BY THE PRESIDENT FROM A LIST OF NOMINEES MADE BY MULTISECTORAL BODIES.

MR. OPLE: I think that expresses it better.

FR. BERNAS: The last part should rather read: FROM A LIST OF NOMINEES FROM MULTISECTORAL BODIES.

MR. NOLLEDO: So the first sentence, Madam President, will read: "THE CONGRESS SHALL ENACT AN ORGANIC ACT FOR EACH AUTONOMOUS REGION WITH ASSISTANCE AND PARTICIPATION OF A REGIONAL CONSULTATIVE COMMISSION COMPOSED OF REPRESENTATIVES APPOINTED BY THE PRESIDENT FROM A LIST OF NOMINEES FROM MULTISECTORAL BODIES."

THE PRESIDENT: Is there any objection to that first sentence of Section 2 as accepted by the Committee? (Silence) The Chair hears none; the amendment, as amended, is approved.

On the second sentence, Mr. Chairman.

MR. NOLLEDO: The second sentence reads: "THE ORGANIC ACT SHALL DEFINE THE BASIC STRUCTURE OF GOVERNMENT FOR THE REGION CONSISTING OF THE EXECUTIVE DEPARTMENT AND LEGISLATIVE ASSEMBLY BOTH OF WHICH SHALL BE ELECTIVE AND REPRESENTATIVE OF THE CONSTITUENT POLITICAL UNITS."

That is the second sentence, Madam President.

THE PRESIDENT: Is there any objection to this particular sentence? (Silence) The Chair hears none; the same is

approved.

MR. NOLLEDO: As amended by Commissioner Uka, the third sentence reads: "The Organic Act SHALL likewise provide for SPECIAL courts with personal, FAMILY and property law jurisdiction consistent with the provisions of this Constitution AND NATIONAL LAW."

THE PRESIDENT: There is a proposed amendment of Commissioner Padilla on this one.

MR. PADILLA: Yes.

THE PRESIDENT: Is it to eliminate "SPECIAL courts" or the whole sentence?

MR. PADILLA: To eliminate the whole sentence.

MR. NOLLEDO: The Committee does not accept the Padilla amendment.

MR. PADILLA: Madam President.

THE PRESIDENT: May we have the amendment?

MR. PADILLA: The Uka amendment from "may" to "SHALL" was accepted by the Chairman, but Commissioner Alonto has been stressing the word "may" so that it will be up to Congress, not as a mandatory duty. I would ask that my amendment be submitted to a vote, Madam President.

MR. NOLLEDO: I have read the third sentence which is objected to by Commissioner Padilla, Madam President. So we submit it to the Commission for a vote.

THE PRESIDENT: What is the amendment of Commissioner Padilla?

MR. PADILLA: It is to eliminate the entire sentence.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: Is it still seasonable at this stage to offer an amendment to the amendment of Commissioner Padilla? I heard him say that what he is against is actually the creation of special courts, not the application of the customary law on family relations and property rights.

So if I may, I would like to offer an amendment that instead of deleting the entire provision or sentence, it be made to read in this manner: The Organic Act may likewise provide THAT THE CUSTOMARY LAW ON FAMILY RELATIONS AND PROPERTY SHALL BE MADE APPLICABLE within the autonomous region" etc.

That would eliminate the requirement that special courts be organized.

MR. PADILLA: I would have no objection to the amendment.

MR. NOLLEDO: The Committee does not accept the amendment, Madam President.

MR. FOZ: With this amendment, this would leave Congress to find out if there is really a need for establishing special courts or for the regular courts to handle what it is that may arise involving customary law.

MR. NOLLEDO: Madam President, the courts are now existing. This is just a recognition of the existence of Shari'a courts which are actually functioning according to Commissioner Uka.

MR. FOZ: But we have to realize that even before the formal establishment of these Shari'a courts, disputes over

the same matters were being resolved in the old customary ways of the Muslims. It was just formalized with the promulgation of those Marcos decrees. So we leave to Congress the discretion to study further whether special courts are really necessary.

MR. NOLLEDO: Madam President, we do not inhibit Congress from amending these decrees or even totally disregarding them and passing other laws similar to these decrees.

MR. DE LOS REYES: Madam President, may I ask Commissioner Padilla two clarificatory questions?

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: I recall that in previous practice, the courts of first instance, acting as special courts with special jurisdiction, act as land registration courts. We have now established the Judicial and Bar Council. Is it the Commissioner's intention that, for example, an appointee to the RTC or CFI in Mindanao will have to be determined by the Judicial and Bar Council, keeping in mind that judges for appointment in those places should know something about Muslim laws? Is that the concept of Commissioner Padilla — without the necessity of creating a specialized court?

MR. PADILLA: Yes, without the necessity of creating or continuing to maintain these special courts.

Regarding the appointment of judges, we have approved the Article on the Judiciary requiring that such appointment by the President come from a list of recommendees. Naturally, the autonomous region will also propose nominees who are not only qualified, honest, good dispensers of justice, but also with some knowledge of the Islamic Shari'a law. But even if a particular judge does not master or does not know so much about the Islamic law, a good judge can always decide with honesty the legal issues involved and the proper law applicable.

MR. DE LOS REYES: With the explanation of that concept, I would like to support the stand of Commissioner Padilla.

MR. PADILLA: Madam President, I have accepted the amendment to the amendment of Commissioner Foz.

THE PRESIDENT: So the amendment is no longer to delete but to adopt the proposed amendment of Commissioner Foz?

MR. PADILLA: Yes, because my idea, after all, as correctly stated by Commissioner Foz, is not to deny the Muslim community their rights.

THE PRESIDENT: Will Commissioner Foz read his proposed amendment to the third sentence in lieu of the third sentence of the Ople amendment.

MR. FOZ: The sentence reads: "The Organic Act may provide THAT THE CUSTOMARY LAW ON FAMILY RELATIONS AND PROPERTY MAY BE MADE APPLICABLE," etc.

MR. ALONTO: Madam President, that is putting completely a different thing from the essence of this provision. And besides that, we had been creating special courts, juvenile courts and circuit courts. There has never been any opposition to this. These special courts have been created to deal on special, particular cases. We are merely suggesting the creation of a special court in the autonomous region to deal on particular, special cases. Why the objection to this? I cannot understand, Madam President.

SUSPENSION OF SESSION

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

It was 5:50 p.m.

RESUMPTION OF SESSION

At 6:01 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. DE LOS REYES: Madam President, may I be recognized?

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Upon consultation with Commissioners Padilla, Uka, Foz and members of the Committee on Local Governments, we are offering this proposal which will meet the ideas and objections of the authors of these different proposals. The sentence will read: "The Organic Act may likewise provide for A JUDICIAL SYSTEM THAT WILL APPLY PERSONAL, FAMILY and property law consistent with the provisions of this Constitution AND NATIONAL LAW."

MR. FOZ: Madam President, may we change the word "will" to SHALL?

MR. DE LOS REYES: That is accepted, Madam President. Does the Committee accept the amendment?

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Is it understood that the special courts now existing will be preserved, and this is without prejudice to more special courts to be created as may be determined necessary in the future?

MR. DE LOS REYES: Special courts now existing, pursuant to the provision in the Transitory Provisions which we intend to propose to this honorable Commission, will not be automatically abolished. This provision precisely will give us a certain leeway, more elbowroom, for the creation of more specialized courts but within the provisions of our Constitution and the national law.

MR. NOLLEDO: The Committee accepts the amendment, Madam President.

THE PRESIDENT: So we preserve the phrase "on Judicial Power"?

MR. NOLLEDO: No, the phrase "on Judicial Power" is already embraced in the phrase "with the provisions of this Constitution AND NATIONAL LAW."

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I would like to state that if by that term judicial system" the interpretation is not only to preserve and maintain the special courts but even to organize more special courts, I am not in agreement with the proposal as drafted because precisely my main point was to eliminate special courts so that the regular trial courts, both regional and municipal, may undertake the enforcement and application of the personal customary laws of these special regions.

MR. OPLE: But that is the meaning attached to the amendment.

MR. NOLLEDO: With due respect to Commissioner Padilla, Commissioner Ople's observations find support among the members of the Committee.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: This matter has been sufficiently discussed by the Members of the Commission. May I ask that we vote on this amendment as proposed by Commissioners de los Reyes, Foz and others?

THE PRESIDENT: Will Commissioner de los Reyes read the third sentence?

MR. DE LOS REYES: "The Organic Act may likewise provide for A JUDICIAL SYSTEM THAT SHALL APPLY PERSONAL, FAMILY and property law consistent with the provisions of this Constitution AND NATIONAL LAW."

MR. RODRIGO: Madam President, before we vote, may I ask a question?

THE PRESIDENT: Commissioner Rodrigo may proceed.

MR. RODRIGO: We now have a judicial system all over the country, national in scope. Now, when "judicial system" is mentioned in this proposed amendment, does this mean a separate judicial system from our present existing judicial system?

MR. NOLLEDO: No, it shall not be separate.

MR. RODRIGO: It is not separate.

MR. NOLLEDO: The judicial system exists within the autonomous region. It says there "consistent with the provisions of this Constitution AND NATIONAL LAW." So it is not separate.

MR. RODRIGO: What is the wording again?

MR. DE LOS REYES: "The Congress may likewise provide for A JUDICIAL SYSTEM THAT SHALL APPLY PERSONAL, FAMILY and property law consistent with the provisions of this Constitution AND NATIONAL LAW."

MR. RODRIGO: That is it. Is that judicial system distinct from the regular national judicial system that we have now: Supreme Court, Court of Appeals, Regional Trial Courts, et cetera?

MR. NOLLEDO: No, Madam President.

MR. RODRIGO: It is not distinct?

MR. NOLLEDO: It is part of that judicial system.

MR. OPLE: It is part of the judicial system of the Republic of the Philippines under this Constitution, but at the same time, it has the flexibility to accommodate the special needs of the autonomous region, Madam President.

MR. RODRIGO: But it is within the judicial system.

MR. OPLE: It is within the Constitution and the law.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: In the light of the statement of Commissioner Ople and the explanation given by him, I would propose an amendment. Instead of "consistent with the provisions of this Constitution AND THE NATIONAL LAW," it should read: "SUBJECT TO the provisions of this Constitution ON JUDICIAL POWER AND THE NATIONAL LAW."

THE PRESIDENT: What does Commissioner de los Reyes say?

MR. DE LOS REYES: The fact of the matter is that I do not see much of a difference; I think it is a matter of style, but I have no real objection to the proposal of Commissioner Davide.

THE PRESIDENT: It is stronger, "SUBJECT TO the provisions" etc.

MR. OPLE: I accept the amendment, and I hope the Committee does the same, Madam President.

MR. NOLLEDO: The Committee accepts the amendment.

THE PRESIDENT: Can we vote now on the third sentence that has been read?

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: I am really bothered by the term "judicial system." Will the Commissioner please read the whole sentence, as amended, again?

MR. DE LOS REYES: "The Organic Act may likewise provide for A JUDICIAL SYSTEM THAT SHALL APPLY PERSONAL, FAMILY and property law SUBJECT TO the provisions of this Constitution ON JUDICIAL POWER AND THE NATIONAL LAW."

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Since this is subject to the provisions on judicial power, it is really within the existing judicial system, so perhaps we should avoid the use of the general term "judicial system" and instead we should use COURTS OR SPECIAL COURTS.

THE PRESIDENT: Then we go back to the old issue.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: I think if we understand the meaning of "system" as existing within a framework of a multicultural, multiethnic nation, there should be no apprehension about the confusion that might arise in equating the special judicial system of the autonomous regions with the national judicial system, because the fact is that there are a number of systems existing within the national framework.

MR. FOZ: But, Madam President, the term "judicial system" gives the idea that within the autonomous region, there shall be a Supreme Court, a Court of Appeals, a Regional Trial Court, and municipal courts of its own. That is the implication of using the term "judicial system" even if it is still under our Constitution. When we say "still under our judicial system," then decisions of the Supreme Court of the region may be appealed to the national Supreme Court. That is what we were saying. So if that is the case, we might as well go to our original formulation of special courts.

MR. OPLE: Madam President, in this context the judicial system is really a subsystem or a subset of the national judicial system. And the reason this is employed as a proposal from the President earlier was precisely because it could accommodate innovative forms of the dispensation of justice in the future as Congress may determine. It will partake of some legal self-sufficiency and to that extent, it is congruent with the special needs of an autonomous region. So, it is congruent with the special needs and conditions of an autonomous region but subject to the provisions of the Constitution on judicial power and national law.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: I would like to call for a vote on these two issues: First, whether or not to use the term "judicial system." If that is defeated, then we will call for a vote on the use of "special courts."

THE PRESIDENT: Is there any objection to that?

MR. PADILLA: I am against the use of "special courts" and object more against the use of "judicial system" within our judicial system.

MR. BENGZON: But those are the two issues that are before the floor.

MR. NOLLEDO: Madam President.

MR. BENGZON: I have a motion, Madam President.

MR. NOLLEDO: I think the issue, Madam President, is whether we revert to the original provision using "special courts" or we adopt the de los Reyes amendment using "JUDICIAL SYSTEM."

MR. PADILLA: My amendment is to delete the whole sentence.

THE PRESIDENT: Let us vote first whether we will delete or not.

MR. BENGZON: Yes, Madam President.

VOTING

THE PRESIDENT: As many as are in favor of deleting the last sentence of Section 2, starting with the words "The Organic Act may likewise provide," please raise their hand. (Few Members raised their hand.)

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

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 5 votes in favor, 25 against and 1 abstention; the amendment is lost.

Now, let us put to a vote the original proposal of the Committee — that with "special courts."

MR. NOLLEDO: It reads: "The Organic Act shall likewise provide for SPECIAL courts with personal, family and property law jurisdiction consistent with the provisions of this Constitution AND NATIONAL LAW."

VOTING

THE PRESIDENT: So, if this proposal gets a sufficient number of votes, we do not vote anymore on the "judicial system."

As many as are in favor of the Committee proposal as so worded, please raise their hand. (Several Members

raised their hand.)

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

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 24 votes in favor, 4 against and 1 abstention; the proposal as recommended by the Committee is approved.

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

THE PRESIDENT: Is it on the same section?

MR. SARMIENTO: It is on the same section, Madam President.

MR. NOLLEDO: I would like to read the second paragraph.

THE PRESIDENT: Commissioner Nollado may please proceed.

MR. NOLLEDO: It reads: "The creation of the autonomous region shall be EFFECTIVE WHEN approved by majority of the VOTES CAST BY THE constituent units IN A PLEBISCITE CALLED FOR THE PURPOSE PROVIDED THAT ONLY PROVINCES, CITIES AND GEOGRAPHIC AREAS VOTING FAVORABLY IN SAID PLEBISCITE SHALL BE INCLUDED IN THE AUTONOMOUS REGION."

THE PRESIDENT: That has been approved already.

MR. NOLLEDO: It was approved but being part of Section 2, I recommend that the proposal be approved if there is no objection.

MR. BENGZON: Madam President, did I hear the Chairman correct when he said "GEOGRAPHIC AREAS"?

MR. NOLLEDO: Yes.

MR. BENGZON: Thank you.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the second paragraph, as amended, is approved.

Shall we read the whole Section 2 now?

MR. NOLLEDO: The whole Section 2 now reads: "The Congress shall enact an Organic Act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multisectoral bodies. The Organic Act shall define the basic structure of government for the region consisting of the executive department and legislative assembly both of which shall be elective and representative of the constituent political units. The Organic Acts shall likewise provide for special courts with personal, family and property law jurisdiction consistent with the provisions of this Constitution and national law." This is the first paragraph, Madam President. The second paragraph of Section 2 reads: "The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities and geographic areas voting favorably in said plebiscite shall be included in the autonomous region."

THE PRESIDENT: Is there any objection?

MR. PADILLA: Madam President, on that third sentence on "special courts," the committee report used the word

"may," not "shall."

MR. NOLLEDO: The Committee accepted the Uka amendment "shall," and there was no objection to it.

MR. PADILLA: It was never put to a vote. It was only the Chairman who immediately accepted it while we were in a period of interpellations.

MR. NOLLEDO: Madam President, we will put it to a vote.

VOTING

THE PRESIDENT: The matter has already been settled; the same has been approved with the word "shall."

As many as are in favor of Section 2 as read, please raise their hand. (Several Members raised their hand.)

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

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 31 votes in favor, none against and 1 abstention; Section 2 is approved.

MR. SARMIENTO: Madam President, I ask that Commissioner Regalado be recognized.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

Before I make any proposal, this would be in the nature of a parliamentary inquiry because the equivalent provision, which is Section 5 of this Article, was discussed when I was in the hospital, and I am not very sure, based on my readings of the Journal, whether it reflects completely what took place here.

Under Section 3 now, it is provided that:

The President of the Philippines shall exercise general supervision over autonomous regions to ensure that laws are faithfully executed.

I understand from the Journal that, with respect to Section 5 of the first portion of this Article, the same words were used except that it ended with the word "regions," to read: "The President of the Philippines shall exercise general supervision over autonomous regions," plus the other statements made therein.

In the approved resolution on the Article on the Executive, in Section 17 thereof, the second sentence states:

The President shall exercise general supervision over all local governments as may be provided by law.

This phrase "as may be provided by law," which is supposed to be the delimitation on the power of general supervision of the President over all local governments, does not appear in either Section 5 or Section 3 of this Article on Local Governments. Now, this makes a lot of difference because the present rule is that the power of general supervision of the President under the Constitution is not self-executing. There must be an implementing law. It was so understood under the 1935 Constitution, and it was so understood and adopted by reference in the 1973 Constitution, that the use of the phrase "as provided by law" was a limitation on the power of general supervision of the President over local governments. As a matter of fact, it was pointed out in the case of *Planas vs. Gil*, in the decision penned by Justice Laurel, that this "general supervision over local governments as provided by law" is actually in the nature of a compromise resulting from the conflict of views in that body, mainly between the historical view, which recognizes the right of local self-government, and the legal theory which sanctions the possession by the State of absolute control over local governments.

In the previous cases decided by the Supreme Court — the case of Planas vs. Gil, and the case of Villena vs. Secretary of the Interior — the Court just proceeded on the assumption that with or without a statutory provision granting the President general supervision over local governments, the President had a residual power to discipline officers of the local governments. But in the subsequent case of Lacson vs. Roque, which appears to be the case in point now, and which was promulgated on January 10, 1953, the Supreme Court pointed out that, unlike control over the ministries, with respect to local governments the power of general supervision of the President over such local governments shall only be insofar as the same may be provided by law. That was the reason it held that President Quirino did not have the power to suspend Mayor Lacson, because neither the Charter of Manila nor any other law gave him that power of suspension.

I am wondering whether the Commission or the Committee has made a complete turnaround by now merely providing that the President, with or without a law, shall have the power of general supervision over local governments, meaning, the so-called "residual powers" of the central government over the local governments, or whether there must be an enabling law because, as pointed out by Justice Tuazon: "It is one thing to control, and another to suspend."

The Supreme Court even pointed out that insofar as supervision of local governments is concerned, there must only be a limited authority. That is why the law says only "general supervision as provided by law," because such a limited authority would not be in contravention of, but is precisely in adherence to, the provisions intended to safeguard local autonomy. The trend in our formulations here is to give more and more local autonomy to local governments. If we eliminate the phrase "as provided by law" insofar as the general supervision over local officials by the President of the Philippines is concerned, then we are delimiting instead of expanding local autonomy.

And that was precisely why in a resolution I submitted to the Committee on the Executive I saw to it that that phrase "general supervision" is to be maintained, as distinguished from "control over Ministries" and only "as provided by law." Otherwise, the President may exercise the so-called "general supervision" untrammelled by any provision of law which restricts his power and it will virtually eliminate the line or the distinction between control and supervision.

THE PRESIDENT: So, in brief, what is Commissioner Regalado's point with respect to Section 3? Does it conflict with any other provision?

MR. REGALADO: Madam President, my point is that it conflicts with the second sentence of Section 17 of the Article on the Executive which has already been passed on Second Reading and which I believe should be the proper wording for the reasons I have given, and such a case has already been decided.

THE PRESIDENT: The new Section 8 of the Article on Local Governments also states that "The President of the Philippines shall exercise general supervision over local governments."

MR. REGALADO: Period. Whereas under Section 17, Madam President, the second sentence says, "He shall exercise general supervision over all local governments as may be provided by law and shall take care that the laws be faithfully executed."

THE PRESIDENT: And that is the Commissioner's point.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I think in our deliberations yesterday, the intention was clearly not to expand the power of the

President but rather, precisely, to limit the power of the President towards ensuring that laws are followed. The interpretation was given that general supervision simply means that the superior sees to it that the inferior acts within the powers granted by law. Moreover, when we amended Section 8, there was also a clarification in order to further emphasize autonomy vis-a-vis the President. We also said that there is a hierarchy of supervisions: municipalities over barangays, provinces over municipalities and component cities, and then the President, over provinces and highly urbanized cities, and I suppose now also over autonomous regions. But the object is mainly that the President, as executive, and by virtue of his oath to make sure that laws are complied with, would only have this power of general supervision, not of control. His power is mainly to ensure that laws are followed. So, clearly, the intention is not to expand the power of the President.

The cases just cited are correct; precisely, the power to discipline was not recognized on the part of the President because the existing law at that time gave disciplinary power, initiation of disciplinary authority, to somebody else. I think the case involved the question of whether the President could initiate disciplinary action against an elective official.

MR. REGALADO: That was the case of Planas vs. Gil.

FR. BERNAS: Yes. And since the charter said that only the provincial board could initiate it, since that was the law, then that had to be applicable.

MR. REGALADO: In the case of Lacson vs. Roque, there was no provision whatsoever in the Charter of the City of Manila. In the case of Villena vs. the Secretary of the Interior, they applied the Administrative Code. Actually, my only question is: Why have we eliminated the phrase "as provided by law" which is actually a safeguard for local autonomy?

FR. BERNAS: The intention, as I recall, was that the power of general supervision should be dependent on existing law because supervision means making sure that the laws are followed.

MR. REGALADO: I agree that the power of supervision is dependent on existing law but the extent of supervision must be spelled out by law.

FR. BERNAS: I think what we were saying is that when we speak of autonomy, we are speaking of autonomy not just vis-a-vis the President but also vis-a-vis the Legislature. So that while we are curtailing the power of the President, we are also curtailing the power of the Legislature.

MR. REGALADO: I am referring here only to the power of the President not with respect to the provincial government over the municipalities constituent thereof. I am only wondering, and I am sure there will be questions because of the disparity of the expression used therein, why under the Article on the Executive, the power of general supervision is "subject to" and "as may be provided by law" whereas here, that phrase which assumes some vital importance is completely eliminated in two sections.

FR. BERNAS: That is why I think when we discussed this yesterday, the Chairman of the Committee on Style and also the Chairman of the Sponsorship Committee saw the possible necessity of reconciling the two. In other words, by dropping the phrase "as may be provided by law," we are cutting the discretion of Congress to give or not to give authority to the President. The intention was not to strengthen the President but rather to strengthen autonomy vis-a-vis the Legislature.

MR. REGALADO: Was it therefore the understanding of the body and of the Committee — because I was not here at that time — that the power of general supervision of the President over local governments lies purely on the fact that he is the national head of the government and not because it is a power vouchsafed to him by provision of

law, in other words, a rethinking, a 360-degree turn from the present conventional rule?

MR. NOLLEDO: That is right.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: For the information of Commissioner Regalado, who was not here when this matter was taken up, I, as Chairman of the Committee on Style, called attention to the duplication of this provision on the power of general supervision of the President over local governments. I called attention to the fact that Section 5, now Section 7 of the proposed provision that we are discussing, is substantially the same as Section 17, second sentence thereof under the Article on the Executive, except — and I called attention to this — for the phrase "as may be provided by law" which appears in Section 17 of the Article on the Executive but does not appear in Section 5 of the proposal. My interest was to find out the desire of the body because the Committee on Style will have to eliminate one to avoid a duplication. And it was decided by the body to remove that sentence from the Article on the Executive, transfer it to the Article on Local Governments, and follow the wording of the provision in the Article on Local Governments, which is minus the phrase "as may be provided by law."

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: In the proceedings yesterday, it was made clear that the intention of the body is to sustain and adhere to the settled jurisprudence that general supervisory powers only mean the power to oversee an inferior body and it does not constitute any restraining authority on the part of the national government over the body being supervised. And the deletion of the phrase "as may be provided by law" was deliberately intended to deny Congress any legislation that might enlarge the supervisory powers of the President previously defined.

THE PRESIDENT: Is that clear now to Commissioner Regalado?

MR. REGALADO: In other words, was it the sense of the body that the present Section 3 under the Article on Autonomous Regions and Section 5 under the preceding provision on Local Governments will be deleted and that the second sentence of Section 17 will be transposed to the Article on Local Governments minus the phrase "as may be provided by law"?

MR. RODRIGO: Yes.

MR. REGALADO: And was it the sense of the body that the power of general supervision by the President over local governments is no longer dependent upon any statutory fiat but inheres from his position as head of the government?

MR. RODRIGO: I am not in a position to answer that. All I was interested in was to find out which I should delete because of the duplication.

THE PRESIDENT: What does the Committee say?

MR. NOLLEDO: Yes.

MR. OPLE: The answer is yes.

MR. DE CASTRO: Madam President.

THE PRESIDENT: May we first allow the Chairman of the Committee to react to the statement of Commissioner

Regalado about the basis.

MR. NOLLEDO: Madam President, my answer is yes.

THE PRESIDENT: The answer is affirmative.

Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

On my notes on the proceedings yesterday, the observation of Commissioner Rodrigo on Section 17 of the Article on the Executive is correct. And on Section 7, formerly Section 5, we stated that: "The President of the Philippines shall exercise general supervision over local governments." And this is followed by the provisions of Section 4.1 of the 1973 Constitution which states:

Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barrios, shall ensure that the acts of their component units are within the scope of their assigned powers and functions.

That is what I got in our proceedings yesterday.

Thank you, Madam President.

MR. SARMIENTO: That is correct.

THE PRESIDENT: Is there any proposed amendment to Section 3?

MR. SARMIENTO: Madam President, I ask that we vote on Section 3, as amended, which is now Section 16. May we ask the Chairman of the Committee to read it?

MR. NOLLEDO: Section 3 on Autonomous Regions reads: "The President of the Philippines shall exercise general supervision over autonomous regions to ensure that laws are faithfully executed."

THE PRESIDENT: Is there any objection to this particular section? (Silence) The Chair hears none; Section 3, as amended, is approved.

MR. NOLLEDO: Madam President, the Committee believes that the next three sections may take a lot of time to discuss, and so we ask that the Floor Leader move for adjournment until tomorrow morning.

MR. OPLE: Madam President, I just want to put on record the proponents of Section 2: Commissioners Ople, Nollado, Foz, Monsod, Rama, Bennagen, Alonto, Villacorta, Azcuna, Uka and Muñoz Palma.

Thank you.

ADJOURNMENT OF SESSION

MR. SARMIENTO: Madam President, there are so any proponents for Section 4. So I join the manifestation of our Chairman, Commissioner Nollado. I move that we adjourn the session until tomorrow at nine-thirty in the morning.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:39 p.m.

[*] Appeared after the roll call

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