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Tuesday, July 22, 1986

CALL TO ORDER

At 9:43 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Ricardo J. Romulo, to wit:

Dear Lord, we beseech You to grant us the faith to believe that we can do the task assigned to us; the hope that our people will find our work worthy of ratification; and the charity to accept graciously the will of the majority in our deliberations.

In the silence of our hearts, let us now pray for our own intentions and the intentions of one another.

Amen.

ROLL CALL

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

Alonto, A. D. Muñoz Palma, C.

Aquino, F. S. Rama, N. G.

Bacani T. C. Regalado, F. D.

Bernas, J. G. Rigos, C. A.

Rosario Braid, F. Rodrigo, F. A.

De Castro, C. M. Romulo, R. J.

Colayco, J. C. Rosales, D. R.

Concepcion, R. R. Suarez, J. E.

Davide, H. G. Sumulong, L. M.

Foz, V. B. C. Tan,

Gascon, J. L. M. C. Treñas, E. B.

Guingona, S. V. C. Villacorta, W. V.

Jamir; A. M. K. Villegas, B. M.

Padilla, A. B.

With 27 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

Abubakar, Y. R. Brocka, L. O.

Azcuna, A. S. Calderon, J. D.

Bengzon, J. F. S. Garcia, E. G.

Bennagen, P. L. Laurel, J. B.

Lerum, E. R. Quesada, M. L. M.

Maambong, R. E. De los Reyes, R. F.

Monsod, C. S. Sarmiento, R. V.

Natividad, T. C. Tadeo, J. S. L.

Nieva, M. T. F. Tingson, G. J.

Nolledo, J. N. Uka, L. L.

Ople, B. F.

READING AND APPROVAL OF THE JOURNAL

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

REFERENCE OF BUSINESS

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

REFERRAL TO COMMITTEES OF COMMUNICATIONS

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

Communication No. 267 — Constitutional Commission of 1986

Communication from Mr. Salustiano G. Tengonciang of 13 Maginhawa, U.P. Village, Quezon City, proposing provisions that would provide for the development of a national language for understanding and unity, and saying that "bilingual education concentrates too much of our efforts in learning a language rather than on instilling in the youth nationalistic values"

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 268 — Constitutional Commission of 1986

Communication from Mr. Bonifacio M. Lacdoo of 9-A Monserrat St.; "MBS" Caloocan City, proposing a legislature composed of all provincial governors

TO THE COMMITTEE ON THE LEGISLATIVE

Communication No. 269 — Constitutional Commission of 1986

Letter from Mr. Delfin R. Manlapaz of 1707 E. Rodriguez Sr. Boulevard, Cubao, Quezon City, Metro Manila, proposing an amendment to Proposed Resolution No. 496 (Committee Report No. 24), which would provide for the creation of a citizen-owned Reservoir of National Credit

TO THE COMMITTEE ON NATIONAL ECONOMY AND PATRIMONY

Communication No. 270 — Constitutional Commission of 1986

Communication from Mr. Cesar C. Sanchez of 19 ACSIE Avenue, Severina Industrial Estate, Km. 16, West Bicutan, Parañaque, Metro Manila, proposing a provision that will require elected national officials headed by the President to come up with an Economic Development Program, embodying a general plan based on priorities for implementation within a specific period of time

TO THE COMMITTEE ON NATIONAL ECONOMY AND PATRIMONY

Communication No. 271 — Constitutional Commission of 1986

Position paper of the American Chamber of Commerce of the Philippines, Inc., in support of Proposed Resolution No. 389, introduced by the Honorable Ambrosio Padilla, entitled: RESOLUTION PROPOSING A PROVISION ALLOWING FOREIGN INVESTORS TO ACQUIRE, HOLD OR OWN LOTS WITH LIMITED AREA REQUIRED FOR THE OPERATION OF EXPORT-ORIENTED INDUSTRIAL ENTERPRISES

TO THE COMMITTEE ON NATIONAL ECONOMY AND PATRIMONY

Communication No. 272 — Constitutional Commission of 1986

Position Paper of the American Chamber of Commerce of the Philippines, Inc., on foreign investments and multinational corporations' role in rebuilding the Philippine economy

TO THE COMMITTEE ON NATIONAL ECONOMY AND PATRIMONY

Communication No. 273 — Constitutional Commission of 1986

Resolution No. 1, series of 1986, of the Archbishop Luis del Rosario Assembly, Pagadian City, proposing a provision in the Declaration of Principles that the basic and fundamental unit of the nation as a body politic is the family institution and that the preservation of its solidarity, development, and strength is the primordial concern of the state

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

Communication No. 274 — Constitutional Commission of 1986

Resolution No. 2, series of 1986, of the Archbishop Luis del Rosario Assembly, Pagadian City, proposing a provision for the retention of the U.S. military bases in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 275 — Constitutional Commission of 1986

Letter from the Alliance of Farmers Union in Zamboanga del Sur, signed by Mr. Wilfredo Alinton, submitting a program for genuine land reform

TO THE COMMITTEE ON SOCIAL JUSTICE

Communication No. 276 — Constitutional Commission of 1986

Resolution No. 115 of the Sangguniang Panlalawigan of Negros Oriental, expressing its objection to the disregard of the province' proprietary rights and suggesting that this be corrected through a provision promoting local autonomy

TO THE COMMITTEE ON LOCAL GOVERNMENTS

Communication No. 277 — Constitutional Commission of 1986

Letter from Mr. Custodio C. Lauron of Bacuag, Surigao del Norte, suggesting provisions on citizenship, suffrage, qualifications of local candidates, retention of death penalty, sessions of Congress from January to November, fiscal year to coincide with the calendar year, and approval of the budget before Congress adjourns, among others

TO THE STEERING COMMITTEE

Communication No. 278 — Constitutional Commission of 1986

An article by the Honorable Commissioners Yusup R. Abubakar, Lugum L. Uka, and Ahmad Domocao Alonto, entitled: "VICE-PRESIDENT LAUREL'S TRIP TO SPAIN UNDERSCORES THE ARABIC INFLUENCE IN THE SPANISH LANGUAGE AND HISTORY — Islam is a universal faith: 55 million Moslems coexist with 700 million Buddhists in China, 30 million Moslems live in friendship with the Russians, 9 percent of the population in Yugoslavia are Moslems — We had religious unity way back in 1930 but Marcos pursuing the policy of divide and rule, promoted religious strife"

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 279 — Constitutional Commission of 1986

A detailed list of native folk songs to be taught in the elementary and high school levels, to be furnished to all Members of the Commission for their favorable consideration, respectfully submitted by the Honorable Commissioners Hilario G. Davide, Jr., Yusup R. Abubakar, Napoleon G. Rama, Regalado E. Maambong, and Lugum L. Uka who are among the authors of Proposed Resolution No. 451, for a better understanding of the implementation of Section 19 thereof

TO THE COMMITTEE ON HUMAN RESOURCES

COMMITTEE REPORT

Committee Report No. 32 on Proposed Resolution No. 533, prepared by the Committee on the National Economy and Patrimony, entitled:

RESOLUTION TO INCORPORATE IN THE ARTICLE ON NATIONAL ECONOMY AND PATRIMONY
A PROVISION ON ANCESTRAL LANDS,

recommending its approval in substitution of Proposed Resolutions Nos. 375 and 378.

Sponsors: Hon. Villegas, Tadeo, Bacani, Bengzon, Jr., Bennagen, Foz, Gascon, Monsod, Natividad, Ople, Romulo, Sarmiento, Suarez, Uka and Villacorta

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 22 ON THE ARTICLE ON THE NATIONAL ASSEMBLY

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of

Committee Report No. 22, entitled:

Resolution proposing an Article on the National Assembly.

Thereupon, the Chair recognized Mr. Davide to continue with the sponsorship.

INTERPELLATION OF MR. RODRIGO

Mr. Rodrigo stated that, although he is a member of the Committee, he signed the report with reservations because of his reservations on unicameral legislature; on the election by sectors and party list; and on the reserve powers of initiative and referendum.

He stated that he was not in essence against election by sector and by party list except that he is concerned with the problem of mechanics of its implementation. He explained that he had already asked the Committee to submit a practical plan for its implementation but no practical method had been submitted so far.

He also stated that he is in favor of initiative and referendum considering that said processes are part of direct democracy, but he adverted to the difficulty of obtaining the required signatures and verifying their authenticity, thereby hampering the effective use of these powers by the people; and that the exercise of these powers is potentially difficult, disruptive and expensive. He expressed the hope, however, that in this age of rapid technological advances, an efficient mechanical and inexpensive device would soon be available to solve the difficulties.

On whether Section 2 is mandatory or directory, Mr. Davide stated that the provision is a grant of authority to the Legislature and it does not qualify whether the same is directory or mandatory. He further stated that the same interpretation could be made on the system of initiative and referendum in Section 27, on which the Legislature could implement a desired policy of allowing people power to be institutionalized in the Constitution.

INTERPELLATION OF MR. FOZ

On the clarification sought by Mr. Foz on the first sentence of Section 16, Mr. Davide informed that the Committee used the word "tenure" instead of "term" so that, should a Member vacate his office as a member of the Legislature, or resign or is removed from such office, he may be appointed to any other office not covered by the second sentence. He affirmed that acceptance of a position outside the Legislature would result in the loss of membership in the Assembly.

On the observation that the extent and scope of the disqualification in Section 16 is similar to Section 4 of the draft on the Article on the Civil Service Commission, Mr. Davide stated that the same interpretation applies, except that Section 16 specifically refers to the Members of the Legislature.

Mr. Davide also affirmed that the Committee intended to extend the coverage of the prohibition or disqualification to subsidiaries of government-owned or controlled corporations, if such subsidiaries have the authority or power to grant franchise or special privilege or to enter into contracts.

INTERPELLATION OF MR. DE CASTRO

In reply to Mr. de Castro's query whether the Committee, in restoring the Commission on Appointments which was provided for in the 1935 Constitution, took into account the many misfeasances and nonfeasances committed before by said Commission, Mr. de los Reyes admitted that there were indeed misfeasances and nonfeasances committed by some of its members but pointed out that the evil would be greater if there is no Commission on Appointments because there would be a unilateral appointment by the President.

On whether the Committee would be willing to substitute the Commission on Appointments with a more prestigious body to deal with presidential appointments, Mr. de los Reyes replied that it could still be a Commission on Appointments with a different composition.

Mr. de Castro recounted, as a member of the AFP Promotions Board at that time, that politics played a crucial role in the promotion of some men with questionable qualifications. He told the Body that the officers and men of the Armed Forces had long wanted insulation from partisan politics. He likewise recounted how the confirmation of his appointment as Chairman of the National Police Commission in 1966 was twice bypassed for the simple reason that he did not accede to the wish of a certain politician who was a member of the Commission on Appointments.

Mr. de Castro informed the Body about his proposed Resolution No. 330 seeking to create a Committee on Appointments in place of the Commission on Appointments, which was referred to the Committee on Constitutional Commissions and Agencies. He then inquired whether his proposed Resolution, which was not acted upon by the Committee to which it was referred, could be made part either of the Article on the National Assembly or the Article on the Executive.

In reply, Mr. Davide agreed that Mr. de Castro's observations were well taken. He stated, however, that the restoration of the Commission on Appointments should not be prevented by some occasional errors it had committed before. He stressed that without such a Commission to approve presidential appointments, there could be a repetition of the experience when the former President exercised his appointing power without check by any other branch of the government. He stated that the evils sought to be avoided with the existence of a Commission on Appointments are far lesser than the evils which may obtain should there be no such Commission.

Mr. Davide opined that the incidents before could have stemmed from the fact that the Rules of the Commission required the concurrence of all its members, which Rules could be relaxed by reducing the number required to confirm an appointment. He expressed confidence that with the restoration of the bicameral legislature, people can look forward to a new Congress of the Philippines whose Members would be more responsible and determined to prevent a repetition of the experience in the past.

Mr. Davide then manifested the Committee's willingness to consider amendments on the manner of confirming presidential appointments by the Commission on Appointments.

INTERPELLATION OF MR. BACANI

On Section 2, on the composition of the National Assembly, Mr. Davide stated that, unless amended, the National Assembly would be composed of 250 Members with the Senate as a separate House composed of 24 Members.

On whether the number could be made flexible to accommodate any increase in population, Mr. Davide adverted to the provision mandating the Legislature to make a reapportionment of legislative districts within three years following the return of every census. He stated that the Committee would be amenable to add in Section 2 the clause "unless otherwise provided by the National Assembly".

On the scope of the term "sectoral and party list representations", Mr. Villacorta, to whom the query was referred, manifested that he would ask the Committee to specify the mechanics of the election of sectoral representatives instead of leaving it to the Legislature, adding that a meaningful sectoral representation would extend protection to interest groups which were not adequately attended to in the past. He stressed that sectoral representation would enhance the chances of marginalized sectors in electing their representatives to the Legislature.

On the apprehension that the Upper House might be monopolized by the moneyed sector, he asked the Committee

whether it would consider identifying the mechanics of multi-party and multi-sectoral representations in the Constitution instead of leaving the matter to the Legislature which could unnecessarily entail a much longer waiting time. In this connection, Mr. Villacorta adverted to the two proposed Resolutions, one, authored by Messrs. Monsod, Romulo and Foz and another, by himself, Mr. Ople, Ms. Aquino, Mrs. Nieva, Messrs. Suarez, Davide, Sarmiento, Uka, Mrs. Quesada, Messrs. Azcuna, Jamir, Tadeo, Garcia, Mrs. Rosario Braid, and Messrs. Bennagen and Villegas, both seeking to incorporate the concept and mechanics of election under a multi-party system and sectoral representation.

On the merits of a multi-sectoral representation based on the study made by the U.P. Law Center, Mr. Villacorta stated that, among others 1) it would encourage interest in political affairs on the part of a large number of citizens who feel that they did not have the opportunity to elect satisfactory spokesmen; and 2) minority groups would not be forced to resort to extra-parliamentary means of expressing their interests and influencing government policies. He stated that sectoral representation means more genuine consultations in the grass roots and more dynamic and vibrant democracy.

As to what sectors would be included in the sectoral representation, Mr. Davide stated that the matter would be left to the implementing law.

Additionally, Mr. Monsod, to whom Mr. Davide yielded for further elaboration on the matter, explained that the party list system is not synonymous with sectoral representation in the sense that the former seeks to avoid the dilemma in the choice of sectoral representatives while the latter refers to representation in the National Assembly exclusively reserved for various sectors who have to choose from among themselves their respective representatives. He pointed out certain problems: 1) as to what sectors would be included; 2) as to who are the farmers, considering that many professionals call themselves "farmers"; and 3) the "reserved-seat-system" of sectoral representation in the Assembly.

He stated that to avoid such problems, the proposed party list system would do away with reserved seats, for instance, for the industrial labor sector, agricultural labor sector and others.

On the manner of representation, he explained that every voter would have two votes, one for the representative of his legislative district, and the other for the party, organization or coalition he intends to be represented in the Assembly. He stated that a list of parties or organizations, which may be national, regional or sectoral, would be posted in all precincts, and that a voter may vote for any party or organization, such that one does not have to be a farmer to be represented by the farmers' party.

Thereafter, he explained that the COMELEC would tabulate the votes garnered by each party or organization, not necessarily a political party, and determine the percentage of the votes for each party. He stated that a party or organization is entitled to only 30% of the allotted seats for the party list, such that if 50 out of 250 seats would be given to the party list system, a party or organization would be entitled to only a maximum of 15 seats, depending on the percentage it has obtained in the election. He noted that for every 2 1/2 percent, a party would be entitled to one seat in the Assembly.

Arithmetically, he pointed out that any district that has 200,000 voters would be entitled to a seat, such that a group with national constituency, for instance of 500,000 voters, would be entitled to two seats. However, he stated that certain groups that would not be able to obtain at least 2 1/2 percent of the votes, could band together and form a coalition to meet the required percentage, thus enabling groups which have national, regional or sectoral constituencies to have a seat even if they did not win any seat on a district basis.

On whether the party list system also refers to sectoral party system, Mr. Monsod explained that the party list

system includes sectoral as well as political parties.

Thereafter, on the prohibition against any Member of the Assembly from intervening in any matter before any office of government "for his pecuniary benefit", in reply to Mr. Bacani's suggestion that the phrase should not be included since it would be difficult to prove such pecuniary interest, Mr. Davide stated that the matter could be considered during the period of amendments.

On the Question Hour, Mr. Davide affirmed that in a parliamentary system, only the President and the Members of his Cabinet may be called to answer questions during the Question Hour, although the suggestion of Mr. Bacani to include heads of government corporations and other government functionaries not related to any specific ministry, may also be considered during the period of amendments.

INTERPELLATION OF MR. NOLLEDO

In reply to Mr. Nollado's query on the meaning of "residence" in relation to a candidate for the Legislature, Mr. Davide stated that it means domicile as interpreted in the 1973 Constitution, hence the deletion of the word "actual".

On whether a candidate who will be 25 years old after the election but before his proclamation would qualify to be a Member of the Assembly, Mr. Davide stated that the age requirement must be met on the day of the election in order to avoid problems like that of a winning candidate who has not qualified on the day of the election but delays his proclamation to meet the age qualification.

On whether an erring Member may appeal his suspension or expulsion to the Supreme Court on the ground that it did not have any legal basis, Mr. Davide recalled that in the case of Senator Osmeña, the Supreme Court decided that the matter of suspension or expulsion was an exclusive prerogative of the Legislature under its Rules. He opined, however, that the matter may be inquired into, in view of the approval of the Article on the Judiciary which provides that being a political question would no longer be an obstacle to a judicial determination of such issue as suspension of a Member of the Minority by sheer majority vote.

As to who would promulgate the rules that would govern the Electoral Tribunal and the Commission on Appointments, Mr. Davide stated that each body shall establish its own rules since both are distinct and independent bodies.

On Section 21, as to whether the powers which the Legislature may grant to the President to carry out a declared national policy in case of war or other national emergency would include the power to legislate, Mr. Davide underscored that in times of war or national emergency, the Legislature may concur with the authority of the President to declare martial law, but during which the Legislature and other legislative bodies continue to function; therefore, such powers granted to the President would be limited to formulation of state policies to meet the exigency of the emergency, which powers, unless sooner withdrawn by resolution of the Legislature, shall cease upon its next adjournment.

On Section 22, on the guidelines for the use of the discretionary funds by the President, Mr. Davide pointed out that President Marcos was able to transfer funds because the General Appropriations Act allowed such transfer under P.D. No. 1177, but that the proposed Article on the Legislature would prevent such abuse of disbursement of discretionary funds, and that other proposals on the matter would be considered at the proper time.

Finally, on the exemption of private educational institutions from realty tax, Mr. Davide clarified that only lands, buildings and improvements which are actually, directly and exclusively used for religious, charitable or educational purposes shall be exempt from taxation.

However, as to the justifications for such exemption, Mr. Guingona, to whom Mr. Davide referred the question, stated that the Committee took into account the fact that the students would benefit from such exemption in the form of reduced tuition fees and improvement in the quality of education.

INTERPELLATION OF MRS. QUESADA

In reply to Mrs. Quesada's query, Mr. Davide affirmed that the disqualification from holding any other office or employment in the government or any of its agency, subdivision or instrumentality would include appointment to the board of regents, board of trustees or board of directors of state universities and colleges.

On whether the prohibition against Members of the Assembly from appearing as counsel would include simple representations before a court, as in influence peddling, Mr. Davide opined that Republic Act 3019, the Anti-Graft and Corrupt Practices Act, prohibits it if the influence were exerted on an administrative official exercising quasi-judicial functions to prevail upon him to render a decision prejudicial to another party.

On whether retainership in a multinational corporation would indirectly influence the passage of laws, Mr. Davide stated that a clear case of conflict of interest would fall under direct interest, but if done in relation to his office, it could be taken as indirect appearance before any administrative body or indirect intervention in any matter before any government office.

If a Representative is proven guilty of influencing the passage of laws to favor his clients, Mr. Davide stated that he could be disciplined for misbehavior by expulsion or suspension under the Rules of the Legislature.

On whether the Committee had considered any mechanism to ensure that the immunity of Members as provided for under Section 16 would not be abused, Mr. Jamir, to whom Mr. Davide referred the query, replied that the Committee would be willing to consider proposals that would prevent abuse of the privilege. He explained that the privilege is extended to the Members of the Legislature so that they could perform their duties without fear of harassment and persecution.

Mrs. Quesada, however, maintained that the privilege should be balanced with the right of due process to prevent its abuse by legislators.

On her query on Section 25(3) on whether the exemption from the payment of realty tax applies to schools which claim that they are charitable institutions because they are not making profits, Mr. Davide stressed that what is exempted is not the institution itself but the lands, buildings or improvements which are actually, directly and exclusively used for religious, charitable and educational purposes. He added, however, that a nonprofit educational institution is not a charitable but an educational institution.

INTERPELLATION OF MR. SUAREZ

On Mr. Suarez' query whether Section 1 should be interpreted together with Section 27, Mr. Davide stated that Section 1 provides the general rule that legislative power shall be vested in a Legislature while Section 27 provides the exceptions as far as initiative and referendum are concerned.

On whether Section 27 also contemplates presidential approval for laws which the people themselves would enact or for legislation they may disapprove, Mr. Davide stated that it would depend on the law to implement the Section, although the authors thereof had already prepared the mechanics for the full implementation of the two concepts. With respect to the procedure for the final approval or veto of whatever may be instituted pursuant to the system of initiative and referendum, Mr. Davide opined that the matter should be left to the Legislature.

On whether the Committee had already prepared an ordinance to be appended to the Constitution to determine the

legislative districts contemplated under Section 2, Mr. Davide replied that the Committee is preparing a resolution to be appended to the Constitution as an ordinance on apportionment. He informed that said ordinance would be prepared with the assistance of the Commission on Elections. He gave the assurance that there would be no gerrymandering as far as apportionment of districts is concerned.

On Section 18, Mr. Davide explained that the concept of the Question Hour patterned after the parliamentary system would be incorporated as a helpful tool to further check the Executive. He stressed that this would not infringe upon the principle of separation of powers but would, in fact, enhance and strengthen the doctrine of check and balance. As contemplated, Mr. Davide explained that it would be mandatory for Cabinet Members to appear before the Legislature when summoned to do so during the Question Hour without prior approval of the President except when the President states in writing that the security of the State is involved, in which case, the Question Hour would be held in executive session.

On the meaning of "educational purpose" in Section 25(3), Mr. Davide explained that the thrust of the provision is to exempt from realty tax the lands, buildings or improvements of educational institutions provided that such properties are actually, directly and exclusively used for "educational purposes". He stressed that the three qualifications must be taken into consideration simultaneously and not individually.

On the reason for the inclusion of the exceptions in Section 26(2), Mr. Davide explained that when a priest, preacher, minister or dignitary is assigned to the Armed Forces of the Philippines, penal institution, government orphanage or leprosarium, he is actually performing governmental duties, divorced from being just an ordinary member of any religious sect or denomination. Mr. Davide also stated that the Committee would consider any amendment to include private orphanages in the exemption.

MOTION OF MR. BENGZON

At this juncture, on motion of Mr. Bengzon, there being no objection, the Body temporarily suspended consideration of the Article on the National Assembly to pave the way for Third Reading on certain Resolutions.

APPROVAL ON THIRD READING OF PROPOSED RESOLUTION NO. 468, AS AMENDED

Upon call of Mr. Bengzon, the Chair declared in order voting on Third Reading, on Proposed Resolution No. 468, as amended, entitled:

Resolution to incorporate in the Constitution an Article on the Constitutional Commissions.

At this juncture, in reply to Mr. Guingona's query whether the Body would be voting on the entire Article which consists of the Common Provisions and the provisions for the Commission on Audit, the Civil Service Commission and the Commission on Elections, Mr. Bengzon stated that the Body would be voting only on the Common Provisions and the provisions on the Civil Service Commissions.

Upon direction of the Chair, the Secretary-General called the Roll for nominal voting. Thereafter, a second Roll Call was made.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor: Rosario Braid

Abubakar Brocka

Alonto De Castro

Aquino Colayco

Bacani Concepcion

Bengzon Davide

Bennagen Foz

Bernas Regalado

Garcia De los Reyes

Guingona Rigos

Jamir Rodrigo

Laurel Romulo

Lerum Sarmiento

Maambong Suarez

Monsod Sumulong

Natividad Tadeo

Nieva Tan

Nolledo Tingson

Ople Treñas

Padilla Uka

Muñoz Palma Villacorta

Quesada Villegas

Rama

Against:

None

With 44 Members voting in favor and none against, the Body approved, on Third Reading, Proposed Resolution No. 468, on the Article on the Constitutional Commissions, Subdivision A-Common Provisions and Subdivision B-the Civil Service Commission.

APPROVAL ON THIRD READING OF PROPOSED RESOLUTION NO. 521, ON THE ARTICLE ON THE CONSTITUTIONAL COMMISSIONS, SUBDIVISION C-THE COMMISSION ON ELECTIONS

On motion of Mr. Bengzon, there being no objection, the Body proceeded to vote, on Third Reading, on Proposed Resolution No. 521 on the Article on the Constitutional Commissions, Subdivision C-the Commission on Elections, entitled:

Resolution to incorporate in the new Constitution the provisions on the Commission on Elections.

MANIFESTATION OF MR. FOZ

At this juncture, Mr. Foz invited attention to the fact that the phrase "perform such other functions as may be provided by law" appearing in Section 1(10) has been transposed to the Common Provisions on the Constitutional Commissions.

Thereupon, the Chair directed the deletion of said phrase from the Third Reading copy.

Upon direction of the Chair, the Secretary-General called the Roll for nominal voting. Thereafter, a second Roll Call was made.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Abubakar Bacani

Alonto Bengzon

Aquino Bennagen

Bernas Padilla

Rosario Braid Muñoz Palma

Brocka Quesada

De Castro Rama

Colayco Regalado

Concepcion De los Reyes

Davide Rigos

Foz Rodrigo

Garcia Romulo

Guingona Sarmiento

Jamir Suarez

Laurel Sumulong

Lerum Tadeo

Maambong Tan

Monsod Tingson

Natividad Treñas

Nieva Uka

Nolledo Villacorta

Ople Villegas

Against:

None

With 44 Members voting in favor and none against, the Body approved, on Third Reading, Proposed Resolution No. 521 on the Article on the Constitutional Commissions, Subdivision C-the Commission on Elections;

APPROVAL ON THIRD READING OF PROPOSED RESOLUTION NO. 469 ON THE ARTICLE ON THE CONSTITUTIONAL COMMISSIONS — SUBDIVISION D - THE COMMISSION ON AUDIT

On motion of Mr. Bengzon, there being no objection, the Body proceeded to vote, on Third Reading, on Proposed Resolution No. 469 on the Article on the Constitutional Commissions, Subdivision D-the Commission on Audit, entitled:

Resolution providing for the provisions on the Commission on Audit in the New Constitution

Upon direction of the Chair, the Secretary-General called the Roll for nominal voting. Thereafter, a second Roll Call was made.

EXPLANATION OF VOTE OF MR. GUINGONA

Mr. Guingona abstained from voting, explaining that the function of the Commission on Audit to serve as guardian of the people's money has been unduly restricted with regard to nongovernmental entities receiving subsidy or equity from the government, even if the government's subsidy or equity in such entities is substantial.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Abubakar Nollado

Alonto Ople

Aquino Padilla

Bacani Muñoz Palma

Bengzon Quesada

Bennagen Rama

Bernas Regalado

Rosario Braid De los Reyes

Brocka Rigos

De Castro Rodrigo

Colayco Romulo

Concepcion Sarmiento

Foz Suarez

Garcia Sumulong

Jamir Tadeo

Laurel Tan

Lerum Tingson

Maambong Treñas

Monsod Uka

Natividad Villacorta

Nieva Villegas

Against: Abstention:

None Guingona

With 42 Members voting in favor, none against, and one abstention, the Body approved, on Third Reading, Proposed Resolution No. 469 on the Article on the Constitutional Commissions, Subdivision D-the Commission on Audit, as amended.

Mr. Davide, however, with the permission of the Body, was later allowed to cast his affirmative vote, thus, increasing to 43 the number of votes cast in favor of Resolution No. 469.

APPROVAL ON THIRD READING OF PROPOSED RESOLUTION NO. 486 ON THE BILL OF RIGHTS

On motion of Mr. Bengzon, there being no objection, the Body proceeded to vote, on Third Reading, on Proposed Resolution No. 486, on the Bill of Rights, entitled:

Resolution to incorporate in the New Constitution an Article on the Bill of Rights.

QUERIES OF MRS. QUESADA

In reply to Mrs. Quesada's query on whether the approval of Resolution No. 486 on Third Reading would preclude the expansion of the Bill of Rights to include social, cultural and economic rights, Mr. Bengzon stated that the matter could be taken up in the Article on Social Justice. Furthermore, the Chair stated that approval on Third Reading of the Resolution approves the Resolution as is, unless reservations have been made.

Mrs. Quesada then inquired on whether the right to form associations would exempt the right to strike.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 11:59 a.m.

RESUMPTION OF SESSION

At 12:02 p.m., the session was resumed.

Upon resumption of session, Mrs. Quesada withdrew her inquiry stating that she had been clarified on the matter.

Upon direction of the Chair, the Secretary-General called the Roll for nominal voting. Thereafter, a second Roll Call was made.

EXPLANATION OF VOTES

By Mrs. Rosario Braid

Casting an affirmative vote, Mrs. Rosario Braid stated that while the Bill of Rights has expanded the notion of human rights as an excellent progressive bill, she was disappointed over the fact that it has failed to address itself to the expanded notion of freedom of information, to include not only the freedom of the individual, accompanied by a social responsibility, but also the State's responsibility to protect these freedoms by providing equal opportunity of access to information by such mechanisms as appropriate decentralized structures so that the common man may fully participate.

By Mr. Foz

Mr. Foz registered an affirmative vote. Referring to Section 7 of the proposed Resolution, he stated that the provision, as amended, gives those in the public sector the right to form unions. He stated that the right to organize carries with it the right to engage in concerted activities including the right to strike, which is the ultimate weapon of labor when negotiations with management fail.

On Section 1 on the scope of the Civil Service, Mr. Foz stated that this is a general description of the scope or extent of the Civil Service. He stated that the amendment made with reference to government-owned or controlled corporations with original charters was intended to embrace them in the Civil Service. He stressed that no declaration was made to the effect that those in the Civil Service have no right to organize or to enter into collective bargaining with their employers. Furthermore, he stated that no declaration was made that they have no right to engage in concerted activities, including the right to strike.

By Mr. Monsod

In voting Yes, Mr. Monsod made the clarification that workers in corporations that do not have original charters have all the rights similar to those working in private companies.

By Mr. Natividad

Mr. Natividad registered an affirmative vote, stating that the Bill of Rights will be more responsive to the needs of the people since it includes vital provisions such as the prohibition on hamletting and wiretapping, release and recognizance, measures against filthy or inhuman conditions of jails, and the prohibition against solitary confinement and confinement incommunicado.

By Mr. Padilla

In voting Yes, Mr. Padilla stated that the Bill of Rights is absolutely necessary to protect the people from possible abuses in the exercise of powers by the government. However, he expressed disappointment on the abolition of the death penalty as embodied in Section 20. He stated that while he would agree to allowing the National Assembly to legislate on whether or not to abolish the death penalty, Section 20, as worded, seems to be quite absurd in the sense that the Commission abolishes the death penalty in the Constitution, and yet allows the

Legislature to reinstate it. He maintained that it should have been the other way around, that is, to retain the death penalty but to allow the Legislature, as circumstances demand, to retain or abolish it.

With respect to Section 16, on the right to bail, Mr. Padilla expressed preference for retaining the original provision extending bail to all persons except those charged with capital offenses, instead of offenses punishable by reclusion perpetua, stressing that capital offense is not identical with capital punishment.

With respect to Section 7, on the right of the public sector to self-organization, Mr. Padilla opined that it would be disastrous to public administration if employees in the Civil Service, especially those exercising governmental functions, would be accorded the right to collective bargaining and the right to strike.

With respect to Section 15 of the 1973 Constitution on the suspension of the writ of habeas corpus, Mr. Padilla favored the restoration of the phrase "or imminent danger thereof", as in the 1935 and 1973 Constitutions.

By Mrs. Quesada

Mrs. Quesada voted Yes but with the understanding as clarified by Mr. Foz.

By Mr. Rodrigo

Mr. Rodrigo, in voting Yes, explained that like Mr. Padilla he was unhappy about Section 20 which abolishes by Constitutional mandate the death penalty but in the same Section allows the Legislature to reimpose it. He opined that the abolition of the death penalty should have been left entirely to the Legislature.

By Mr. Tadeo

Mr. Tadeo voted Yes, stating that if it is the nature of the bird to fly and the fish to swim, man's nature would be to unite but that such unity will be useless unless there is concerted action. He expressed his support for the views of Mr. Foz and Mrs. Quesada.

By Mr. Tingson

Mr. Tingson voted Yes, with the observation that the Bill of Rights of the proposed Charter is much better than the provisions contained in the 1935 and 1973 Constitutions.

By Mr. Uka

Mr. Uka voted Yes and manifested that he shared the observations of Messrs. Padilla and Rodrigo.

By Mr. Villacorta

Mr. Villacorta voted Yes with the understanding that Section 3 is not meant to be a censure on the legitimacy or a detraction from the efficacy of the Presidential Commission on Good Government as had been liberally interpreted in the press. He placed on record his belief that the PCGG is a potent instrument for rectifying the abuses of the past regime and that it has in a large measure been acting in good faith.

By Mr. Villegas

Mr. Villegas voted Yes with the expectation that the reference to the fact that life starts from conception shall be contained in another Article. He observed that the idea of life starting from conception is not a sectarian view. He called attention to the fact that one of the leading proponents of the anti-abortion provision in the Constitution is President Ronald Reagan, a non-Catholic who supported the movement against abortion.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Abubakar Laurel

Aquino Lerum

Bacani Maambong

Bengzon Monsod

Bennagen Natividad

Bernas Nieva

Rosario Braid Nolledo

Brocka Ople

De Castro Padilla

Colayco Muñoz Palma

Concepcion Quesada

Davide Rama

Foz Regalado

Garcia De los Reyes

Guingona Rigos

Jamir Rodrigo

Romulo Tingson

Sarmiento Treñas

Suarez Uka

Sumulong Villacorta

Tadeo Villegas

Tan

Against:

None

With 43 Members voting in favor and none against, the Body approved, on Third Reading, Proposed Resolution No. 486 on the Article on the Bill of Rights, as amended.

APPROVAL ON THIRD READING OF PROPOSED RESOLUTION NO. 530, ON THE ARTICLE ON SUFFRAGE

Thereafter, Mr. Bengzon moved for a vote, on Third Reading, on Proposed Resolution No. 530 on the Article on Suffrage. Mr. Regalado, however, called the attention of the Committee on Style to the fact that in view of the events in the previous day's session, the phrase in the third paragraph of Section 1 which reads "The National Assembly" should be replaced either by the words LEGISLATURE or CONGRESS as the case may be. The Chair took note of this correction.

Upon direction of the Chair, the Secretary-General read Proposed Resolution No. 530, entitled:

Resolution to incorporate in the New Constitution an Article on Suffrage.

The Secretary-General called the Roll for nominal voting. Thereafter, a second Roll Call was made.

EXPLANATION OF VOTES

By Mr. de Castro

Mr. de Castro abstained for the reason that those who cannot read or write are the sources of electoral frauds, noting, however, that these people can learn through an adult education program.

By Mr. Padilla

Mr. Padilla voted Yes but adopted the observations of Mr. de Castro on those who are illiterates.

By Mr. Rama

Mr. Rama voted No, stating that one of the reasons for the creation of the Constitutional Commission is to institute reforms in the system and that one of the great evils in the system is cheating during elections. He maintained that cheating is one of the sources of election frauds and adverted to the statements of COMELEC Chairman Ramon Felipe and the Integrated Bar of the Philippines to the effect that the 1973 Constitutional provision allowing people who cannot read or write to vote is one of the major sources of cheating. He opined that the least that the Constitutional Commission could do would be to listen to these people and learn from experience. He stated that the Commission should have deleted this provision allowing those who cannot read or write to vote in a democratic process.

By Mr. Uka

Mr. Uka voted No, stating that he is still waiting for the mechanism which will enable the illiterates to prepare their ballots in secrecy and without any assistance.

By Mr. Ople

Mr. Ople, in explaining his Yes vote, remarked that with the approval of the Article on Suffrage, more than 600,000 Filipino overseas contract workers in 117 countries will gladly note the action taken by the Commission in acknowledging the right of these workers to exercise suffrage wherever they may be. He also manifested his satisfaction that the Commission was able to prevent the cruel and unconscionable act of disenfranchising millions of Filipinos who have been denied the opportunity of education.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Abubakar Nieva
Aquino Nollado
Bacani Ople
Bengzon Padilla
Bennagen Muñoz Palma
Bernas Quesada
Rosario Braid Regalado
Brocka De los Reyes
Colayco Rigos
Concepcion Rodrigo
Davide Romulo
Foz Sarmiento
Garcia Suarez
Guingona Sumulong
Jamir Tadeo
Laurel Tan
Lerum Tingson
Maambong Treñas
Monsod Villacorta
Natividad Villegas

Against: Abstention:

Rama De Castro

Uka

With 40 Members voting in favor, 2 against and one abstention, the Body approved, on Third Reading, Proposed Resolution No. 530 on the Article on Suffrage, as amended.

SUGGESTION OF MR. BENGZON

Thereafter, Mr. Bengzon suggested that the Committees on Style and Sponsorship meet their Committee Members in view of the number of resolutions approved by the Body on Third Reading, which require their action.

Mr. Guingona informed the Body that Mr. Rodrigo, Chairman of the Committee on Style and himself, had already agreed to meet and call a meeting of their respective Committees early next week.

SUSPENSION OF SESSION

The Chair suspended the session until two-thirty in the afternoon.

It was 12:31 p.m.

RESUMPTION OF SESSION

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

Upon resumption of session, Mr. Davide manifested that the Committee had submitted an amended Committee Report, incorporating structural changes attuned to a bicameral system which the Commission had adopted.

Thereupon, upon his request, the Body adopted Committee Report No. 22, as amended, as the basis of further discussions.

INTERPELLATION OF MR. NATIVIDAD

In reply to Mr. Natividad's query on the prohibitions under Sections 18 and 19, Mr. de los Reyes stated that in Section 18, the prohibition refers to the holding of any other office or employment in the government which has nothing to do with the practice of profession, while Section 19 refers to the prohibition from appearing as counsel. He stated the Committee's intention to consider legal consultancy in the government or any subdivision, agency or instrumentality thereof, including government-owned and controlled corporations, as a form of employment and, therefore, prohibited. As a whole, he agreed that there is no tacit provision prescribing the practice of profession by a Member of Congress.

On whether a Senator or Member of Congress could appear before the Sandiganbayan within the purview of Section 19, Mr. de los Reyes stated that he could not if the offended party is the government and the employee or officer is accused.

Mr. de los Reyes also agreed that a Member of Congress has to resign if he accepts appointment as a member of the board of directors of a corporation having contracts with the government.

On whether the Question Hour would preclude the new Legislature from establishing the Privilege Hour, Mr. de los Reyes stated that it would not because the Question Hour is merely a feature of a parliamentary system sought to be adopted for the National Assembly.

On Section 25, Mr. de los Reyes stated that there is no prohibition for Congress to increase or decrease the presidential budget, the form, content and manner of preparation of which shall be prescribed by law.

On the contention that Congress is not constitutionally authorized to increase the budget, Mr. Davide underscored that Congress could not increase the budget because it should be based on existing and proposed revenue measures.

On the observation that the budget of receipts and proposed revenue measures are ambivalent in that they are just protections of the future earnings of the government, Mr. Davide stated that that was exactly the reason why Congress could not go beyond such projections. He expressed willingness, however, to consider amendments at the proper time.

On increases in the salaries of Members of Congress, Mr. Davide adverted to Section 15 as the provision that will govern.

On jurisdiction over pre-proclamation contests for the House, Mr. Davide stated that Section 12 vests such

jurisdiction in the Electoral Tribunal.

On the concept of uniform and progressive ratio, Mr. Davide stated that the Committee foresees the possibility of having a ratio of 1:300, 000. In this connection, he informed that the Committee intends to submit an ordinance to be appended to the Constitution on the apportionment of seats for the regular Members of the Assembly on the basis of 1:300, 000 ratio taking into account such factors as compactness, contiguity and adjacence of territories.

INTERPELLATION OF MS. TAN

On Section 31, in reply to Ms. Tan's query as to how the Committee arrived at ten percent of the total number of registered voters for purposes of initiative and referendum, Mr. Azcuna explained that the ten percent requirement was based on the recommendations of the proponents of the system of initiative, which percentage the Committee felt was reasonable, leaving additional requirements to be prescribed by the Legislature.

On Section 22, on the difference between a treaty and an international agreement, Mr. Azcuna explained that a treaty is an international commitment which should be ratified by the Legislature while an international agreement is one which the President could enter into without need of ratification. He stated, however, that under the provision any international commitment of the country should have the ratification of the popular representatives of the people. He pointed out that this would give the Legislature additional power to check the conduct of foreign relations which is basically an executive power. He added that cultural exchanges would be in the category of international agreements which could not be difficult for the Legislature to concur in.

On Section 28, Ms. Tan opined that it would be unreasonable to exempt religious institutions from taxation if even the poor people are required to pay especially at this time of economic recovery. She stated that she would present an amendment at the proper time.

In reply, Mr. Azcuna stated that the provision was lifted from the 1935 Constitution based on the philosophy that the power to tax is the power to destroy. He stressed the need to exempt religious institutions in order to promote the separation of Church and State.

INTERPELLATION OF MRS. ROSARIO BRAID

On Section 9, as to what possible sanctions may be imposed on the Commission on Elections, if it fails to call a special election in case a vacancy arises, Mr. Azcuna stated that any citizen may file a petition for mandamus to compel the COMELEC to call a special election. He stated, however, that an amendment making the provision mandatory would not be necessary considering that the word "shall" has been used which is usually interpreted to mean mandatory.

On Section 30, on the prohibition against the enactment of laws granting title of royalty or nobility, in reply to Mrs. Rosario Braid's suggestion that it could be deleted in view of a similar provision in the General Provisions, Mr. de los Reyes explained that this was originally included in the Bill of Rights but it was agreed during the debate to transfer said provision to any appropriate Article, which the Committee deemed would be the Article on the Legislative.

On Section 7, regarding the residence requirement for a Member of the House of Representatives prior to his election, in reply to the suggestion to require actual residence rather than mere intention to reside, Mr. de los Reyes pointed out the difficulty of reconciling this provision with the Article on Suffrage which allows Filipinos abroad to vote.

On Sections 6 and 8, Mr. de los Reyes affirmed that these provisions be amended to cover the matter of

synchronization of elections of Members of the House of Representatives and the Senate which could be done either in the Transitory Provisions or in the Article on the Legislative.

INTERPELLATION OF MR. SARMIENTO

On Section 25, regarding budget and appropriations, Mr. Sarmiento recalled that during the past administration, a substantial amount of the budget was allotted to the military at the expense of other ministries. He inquired whether the draft Article provides sufficient safeguards to prevent a repetition of this practice. He manifested his desire to propose an amendment at the proper time to cover such a situation, which proposal would read: "The annual appropriation for national defense, including all components of the Armed Forces, shall not exceed ten per centum of the annual budget of the government except when the Philippines is involved in a war".

Replying thereto, Mr. Azcuna stated that while the Committee did not provide for specific safeguards against gargantuan budgets for the military, there is a provision that the budget shall be a budget of receipts based on existing and proposed revenue measures and of expenditures. He opined that the Legislature, as well as the President, should be left with the discretion to remedy any case of grave abuse although judicial power could be resorted to.

Mr. Azcuna also pointed out that the amendment would imply an overreaction to the previous experience aside from the fact that to set a ceiling for the military could be a bad precedent for other ministries to invoke. He assured that there are enough safeguards contained in the proposed Article on the Executive. He opined that it would be unwise to tie the hands of the Executive by imposing ceilings and restrictions which may be a handicap in case of emergency.

On Section 20 regarding the Question Hour, Mr. Azcuna stated that the Committee would consider the insertion of the phrase "upon their initiative" to cover the situation when a Cabinet Member or a deputy, upon his initiative, would want to appear before the Congress.

On Section 7, on the rationale for deleting the phrase "to serve the unexpired term" which was originally included in the first draft, Mr. Azcuna stated that it should be included but that it was inadvertently omitted.

On whether the COMELEC still has to call a special election in case the unexpired term is less than one year, Mr. Azcuna stated that he could not foresee the possibility that such a situation may arise considering that as envisioned by the provision, the vacancy has to be eighteen months before the regular election and that it does not provide a staggered term for the Members.

On Section 10, on the power of the President to call a special session, Mr. Azcuna stated that the Committee would welcome any proposal to authorize the Members to call the Congress to session at any time although traditionally, this is an exclusive power of the President.

Finally, on Section 25 which authorizes the President, the Chief Justice, the Speaker of the House and the Senate President to augment any item in the General Appropriations Act, Mr. Azcuna stressed that the amount to be augmented is limited to the savings realized.

INTERPELLATION OF MR. MAAMBONG

On whether the electoral tribunal, either of the Lower House or of the Senate, has jurisdiction over pre-proclamation contests, Mr. Azcuna clarified that contrary to what had been previously stated, the Electoral Tribunal would not have such jurisdiction.

Mr. Azcuna affirmed that these Electoral Tribunals are constitutional bodies which are subject to constitutional

restrictions intended for them. He stated that consistent with the Supreme Court ruling in the case of Vera vs. Avelino, these Electoral Tribunals are not separate departments of the government, unlike the Executive, the Legislative and the Judiciary.

On whether the Supreme Court ruling in the case of Angara vs. Electoral Tribunal applies to these Electoral Tribunals in the sense that these are independent from Congress, devoid of partisan influence or consideration and therefore the Congress has no power to regulate their proceedings, Mr. Azcuna replied in the affirmative, stressing that they are independent although not separate branches of government.

On whether the creation of these Electoral Tribunals is an exception to the rule that Parliaments reserve unto themselves the determination of controversies respecting the election and disqualification of their Members, Mr. Azcuna stated that they are exempted to the extent that they are independent and considering that each House has its own tribunal.

On the observation that they could not be independent considering that there would be six politicians sitting in each of the tribunals, Mr. Azcuna stated that politicians could be independent in the same manner that members of the Opposition were appointed to the Constitutional Commission premised on the assumption that they could act independently.

Mr. Azcuna affirmed that despite the deviation in the case of presidential and vice-presidential contests which would be decided by the Supreme Court en banc, the Committee decided to adhere to the traditional Senate Electoral Tribunal and the House Electoral Tribunal. He opined that they would have to adopt a set of Rules different from the Rules of the previous Electoral Tribunals considering that the provision differs from the version in the 1935 Constitution.

On whether service of a Senator or a Congressman in an Electoral Tribunal would not violate Section 18, Mr. Azcuna stated that the sections should be construed together consistent with the established principles of statutory and constitutional interpretation. He said that the Committee would welcome a proposal to avoid any discord between the two sections.

Mr. Azcuna stated that decisions of Electoral Tribunals would not be appealable to the Supreme Court.

On the criteria in apportionment, Mr. Maambong cited the case of Cebu City which had two representatives in the last Batasan elections. He then inquired whether the Committee intends to divide the city into two legislative districts or allow voting of the candidates at-large, in reply to which, Mr. Davide explained that under the proposal, if the province is entitled to more than one district, the city will have to be apportioned into districts. He stated, however, that at the proper time a proposal would be presented providing that when a city is entitled to two representatives, they will have to be voted at-large because of its small territory even if the population would be several hundreds of thousands.

On the observation that if cities would not be divided into legislative districts, the election of Representatives would be at-large, Mr. Davide stated that if the proposal would not be altered, the cities would also be divided into districts. He, however, disclosed that the Committee had not yet made a stand on the matter because no amendment had been formally presented.

INTERPELLATION OF MR. BROCKA

On Section 28(3), in reply to Mr. Brocka's observation that the provision does not make a distinction between profit-oriented and nonprofit schools, Mr. Guingona stated that the exemption refers to lands, buildings or improvements used for educational purposes, and that it would benefit the students more than the institutions in

the sense that any relief from the government would result in the reduction of fees to be paid by the students. He also pointed out that the Committee on Human Resources stressed its concern over improving the quality of education.

Mr. Brocka, however, recalled that specific distinctions were made when concern over the quality of education was raised, to which, Mr. Guingona replied that because the Committee was considering all kinds of taxes, including income tax, it had to distinguish between profit-oriented schools and non-profit schools, but because Section 28(3) is concerned only with lands and buildings for educational purposes, the exemption should apply to all.

Mr. Brocka contended that exemption from taxes would not presume a high quality of education, to which Mr. Guingona replied that taxation would have an adverse effect on the returns of investment, which as shown by a survey of the Fund for Assistance to Private Education is 3% indicating that even profit-oriented private institutions were forced to close. Mr. Brocka, however, noted that it may not be true to rich educational institutions.

On the matter of facilities, Mr. Guingona observed that nonprofit institutions have even more facilities, to which Mr. Brocka replied that if that is the case, then educational institutions do not have to be exempted from tax.

Mr. Guingona stressed that in the long run, if there would be no exemption, the students would suffer. He stated that until that time when the government is able to provide the kind of education that the students deserve, the educational institutions should continuously be supported.

Finally, on Section 31 on the 10% of the total number of voters, of which 3% must represent a legislative district, which percentage would be required in proposing legislation through initiative, Mr. Azcuna underscored that it refers to 10% of the total number of registered voters, whether they voted or not.

MOTION OF MR. RODRIGO

At this juncture, Mr. Rodrigo raised the prejudicial question on the terms of Members of Congress and of the President. He observed that as proposed, the term of the Members of Congress would be four years, while that of the President would be six years; hence, the problem of synchronization of elections.

He suggested that the matter be decided immediately by the Committees on the Legislative, and on the Executive.

Mr. Davide manifested the intent of the Committee on the Legislative to consider it a prejudicial question; thus, he seconded Mr. Rodrigo's motion.

The Chair, however, suggested that while the Chairman of the two Committees were conferring on the question, the Body continue the discussion on other issues.

At this juncture, Mr. Maambong requested that the Chairman of the Committee on Amendments and Transitory Provisions be also included in the consultation since the Committee was also considering the term of the incumbent President and Vice-President.

SUSPENSION OF SESSION

Thereupon, the Chair suspended the session.

It was 3:59 p.m.

RESUMPTION OF SESSION

At 5:09 p.m., the session was resumed.

ANNOUNCEMENT OF MR. RAMA

At this juncture, Mr. Rama announced that the Body would go into Caucus at 6:00 p.m., to discuss the term of office of the legislators, the President and other officials for purposes of synchronization, as well as the compensation of said officials.

He stated that the interpellations should be finished during the day in order that the Body could proceed to the period of amendments in the next session.

Thereafter, Mr. Rama asked that Mr. Ople be recognized.

INTERPELLATION OF MR. OPLE

Referring to Sections 18 and 19 on the matter of conflict of interests, Mr. Ople inquired whether the Committee had considered adding a provision requiring public disclosure of the financial and business interests of the Members of the Legislature to determine if indeed there would be conflict of interests.

Mr. Azcuna stated the Committee's willingness to consider an amendment at the proper time.

As to whether the conflict of interest provisions in Sections 18 and 21 would apply to future sectoral representatives and those who shall become Members of Congress through party list, Mr. Azcuna explained that the intention is to apply the accountability provisions to all Members of the House of Representatives regardless of whether they are sectoral representatives or were elected through party list or the ordinary systems.

As to whether sectoral representatives who are heads of their own organizations should have to resign in full conformity with Sections 18 and 21 and the full disclosure policy inasmuch as there might be a commingling of their identities as heads of such organizations with their functions as representatives of the people, Mr. Azcuna stated that the Committee does not envision a general rule of resignation since the prohibitions on interest are specifically stated. Such prohibited interests, he explained, would refer to contracts or franchise or special privileges granted by the government or a matter pending before any office of government wherein the Member may act for his pecuniary benefit. Being a sectoral representative, he added, would not necessarily mean that there will be a conflict of interest and such matters will have to be judged on a case-to-case basis. Mr. Azcuna affirmed that representatives who practice in the Ministry of Labor and Employment and in agrarian courts shall be subject to the same prohibitions in Sections 18 and 19 as other Members of the House of Representatives.

On Section 22, Mr. Ople queried why the Committee would involve both Houses in the ratification of a treaty or an international agreement whereas under the other Constitutions and in accordance with worldwide practice, it is usually the Senate which ratifies such treaties. Mr. Azcuna explained that the House of Representatives was included in the concurrence of treaties because the Committee believed this would be in line with institutionalizing the policy that treaties should be submitted to the representatives of the people inasmuch as treaties may concern sovereignty and sovereign rights. He nevertheless stated the Committee's willingness to entertain an amendment to this Section.

Mr. Ople remarked that the Senate and the House of Representatives enjoy a kind of symmetry of exclusive powers whereby appropriations would originate only from the House but treaty ratification would be lodged in the Senate.

Mr. Azcuna affirmed that under Section 22, even Executive Agreements shall have to be reviewed by the Legislature.

Mr. Azcuna also affirmed that one example of an executive agreement would be the Military Bases Agreement which from the United States standpoint is an Executive Agreement but from the Philippine standpoint is a treaty fully ratified by its Senate with the binding force and effect of law.

Mr. Ople noted that under Section 22, even such agreements shall be subject to Congress' ratification which he feared might lead to a repetition of the 1947 incident when the Philippines ratified the bases treaty which the United States even refused to submit to its own Senate for ratification. He stated, moreover, that there were many countries in the world like Japan and the European countries, which, by law and tradition, do not submit their Executive Agreements to their parliaments or legislatures for ratification. In relation thereto, he queried if it would not be a disadvantage for the country and an asymmetry if an Executive Agreement with such countries would have to be submitted to the Philippine Senate for ratification which shall give such treaty the full force and effect of a treaty while the other signatory country would deem it as one in a series of routine and perfunctory agreements entered into with other countries.

Mr. Azcuna, admitting such a possibility, reiterated the Committee's willingness to consider any suggestion whether by way of requiring reciprocity or some other way to avoid disparity.

On Section 28, on the matter of taxation, Mr. Ople stated that Committees in the Constitutional Commission have shown a strong trend for decentralization or the grant of autonomy to regions and to certain cultural communities and part of such grant is the power of taxation. He recalled that a case involving Ormoc City which decided to exercise the autonomous power of taxation was brought to the Supreme Court and was lost on technicality not because it violated the uniform tax standard required by the Constitution but simply because it forgot to speak in the plural when it referred to all the sugar centrals in the city instead of designating by name for purposes of taxation the only sugar mill. As to whether the Committee, in order to align Section 28 with the requirements of local autonomy including taxation at local level, would consider an amendment which would explicitly recognize the taxation power of municipalities as part of a grant of autonomy without violating the Constitutional provision, Mr. Azcuna replied that the Committee shall consider an amendment.

INTERPELLATION OF MR. RIGOS

On line 7 of Section 5, Mr. Rigos inquired whether the phrase "with a population of more than two hundred thousand" should not have read "with a population of no more than 200,000". Mr. Azcuna answered that the Committee means more than 200,000 in which case the city shall at least have one representative.

He also clarified that in a city with a population of 500,000, the representative may be more than one.

On Section 13, on the composition of the Commission on Appointments, Mr. Azcuna clarified that there shall be 25 members including the Chairman as ex officio member.

As for Mr. Rigos' suggestion to put the President of the Senate as ex officio member in this provision, Mr. Azcuna stated that the Committee will entertain an amendment to clarify the points raised by Mr. Rigos.

INTERPELLATION OF MR. MONSOD

On Section 25, Mr. Monsod noted that there seemed to be a presumption that it would always be a balanced budget, to which Mr. Azcuna replied that the provision was based on what might be called as "pay-as-you-go basis" and admitted that the presumption was so.

As to whether the Section would preclude a growth budget, where there is a deficit which is financed through the issuance of money by purchases by the Central Bank of debt notes from the government and as to whether, in particular reference to this year's budget deficit ranging from \$22-\$26 billion, such budget should not be authorized if Section 25 were applied, Mr. Azcuna stated that it may come under the special appropriations but not under the General Appropriations Bill inasmuch as there is provision on special appropriations also under Section 25(4).

Mr. Monsod noted that the aforementioned subparagraph states "shall be supported by funds actually available as certified by the National Treasurer, or to be raised by corresponding revenue proposal" in which case that kind of financing would not be allowed either under the paragraph. Mr. Azcuna replied that if it is not a revenue proposal, it shall not be allowed.

Mr. Monsod stated his apprehension that under the principles of government budgeting, this limitation would be unduly restrictive of a growth budget. He noted further that one way of priming the present economy would be an expansionary monetary policy but as formulated the provision might unduly restrict government options and flexibility in managing the economy. Mr. Azcuna welcomed an amendment to such effect.

INTERPELLATION OF MR. GASCON

As to whether the members of the Senate can be elected on a party list system, Mr. Azcuna said that it was not expressly stated in the provision though the Committee would be happy to consider an amendment to such effect inasmuch as the party list system is most apt where there is a representation at-large of a constituency rather than a single district.

As to whether the party list system would be applicable on a national level even more so than on a district level, Mr. Azcuna stated that it would apply on a level where there is multi-representation such as an elected-at-large Senate. He admitted that it would be easy to fit in a party list system of proportional representation as there is a bigger number elected from the same constituency.

As to whether implementing a party list system to the Senate would result to greater access to more political parties and avoid the monopoly or dominance of one political party, Mr. Azcuna replied in the affirmative and added that under the traditional method of voting, for the Senate at-large, the party which garners 51% would get all 24 seats, a situation which, he explained, would be a winner-take-all and clarified that the other party which gets the minority vote would not get any seat at all. In the proportional representation, one version of which is the party list method, should a party or a group get 10% of the vote, they would get 10% of the 24 seats.

On whether it would be easier to implement the party list system on that level, Mr. Azcuna replied that it would be normally easier to implement the system of proportional representation when there is a multiple representation of a single constituency.

On a follow-up to the interpellation of Mr. Gascon, Mr. Monsod explained that in the Senate, there would be no need to apply the party list system as it is already nationwide and there are other ways to get proportional representation. He clarified that when there are 24 seats available, a sectoral group may vote for just one and none for the 23 seats.

Mr. Gascon stated that he would be assured if the 10% who voted for a particular candidate would be so represented in the Senate which would help in establishing democracy.

Mr. Monsod stated that in an election where there are 24 Senatorial seats at stake, a group's 4 to 5% vote would be enough to win that group a seat if it leverages its bloc with other groups.

Thereafter, Mr. Monsod inquired from the Committee if Section 22 would include the restructuring agreement on the country's external debts with the consortium of banks. Mr. Azcuna replied that a government-to-government agreement would be covered by the provision but not a bank-to-bank agreement.

Mr. Azcuna clarified that agreements with financial institutions such as the IMF or EXIM Bank would not be covered. He stated that the provision refers to agreements between subjects of international law.

INTERPELLATION OF MR. SUAREZ

Mr. Suarez inquired whether 20% in the membership of the Commission on Appointments of 24, would come from the sectors. Mr. Monsod, in reply thereto, stated that there are 12 members of the House of Representatives and every bloc of 8% would get one seat.

Invoking the 20% representation for the multi-sectoral groups in the membership of the Electoral Tribunal which shall be composed of 9 members, 6 of whom would come from Congress, Mr. Suarez asked if the sectoral groups would have 1.2 representatives. Mr. Monsod said that the computation is arithmetically correct although at this stage the composition of the 20% is yet unknown. He stated that 20% or 60% of that 20% may come from two political parties. Under such circumstances, Mr. Monsod noted it would be possible for two parties to have 20% (10 seats) or 60% (30 seats) out of the 50 seats. He added that it would depend on how the 50 party list representatives realign themselves

On the fractional representation, Mr. Monsod stated that every group which has at least 2 ½% shall be listed down and thereafter 50 seats shall be divided among the groups in the list.

ADJOURNMENT OF SESSION

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

It was 5:42 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO
Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on July 23, 1986

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