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Friday, October 3, 1986

CALL TO ORDER

At 10:03 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. Yusuf R. Abubakar, who recited the prayer first in Arabic as originally conceived to show the beautiful lines that the prayer conveys and then in English for its full meaning, to wit:

In the name of Allah, Most Gracious, Most

Merciful

Praise be to Allah, Lord of the Universe

Most Gracious, Most Merciful

Master of the Day of Judgment

To Thee do we worship

And to Thee do we seek for help

Show us the right path

The Path of those whom Thou hast bestowed

Thy Grace

And not those whose path hast earned Thy Wrath

And those gone astray.

O Allah, give us Thy blessings that this Constitution

we are about to finish shall appeal to men

in their doubts and fear,

Help and put heart in them in moments of trials,

and ordain for them laws by which they could

live a society of purity, goodness and peace.

Verily, when Allah intends a thing, His Command is ;

"BE", and it is.

So Glory be to Him in whose Hands is the Dominion
of all things.

And to Him will you all be brought back.

Amen.

ROLL CALL

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

Abubakar Y. R. Padilla. A. B.

Bacani, T. C. Muñoz Palma, C.

Bennagen, P. L. Quesada, M. L. M

Rosario Braid, F. Rama, N. G

De Castro, C. M. Regalado, F. D

Colayco, J. C. De los Reyes, R. F

Concepcion, R. R. Rigos, C. A.

Davide, H. G. Rodrigo, F. A

Foz, V. B. Romulo, R. J

Guingona, S. V.C. Suarez, J. E

Jamir, A. M. K. Sumulong, L. M

Laurel, J. B. Tan, C.

Maambong, R. E. Treñas, E. B

Monsod, C. S. Uka, L. L

Natividad, T. C. Villacorta, W. V.

Nieva, M. T. F

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

The following Members appeared after the Roll Call:

A.M.

Alonto. A. D. Gascon, J. L. M. C.

Aquino, F. S. Lerum, E. R.

Azcuna, A. S. Nollado, J. N.

Bengzon, J. F. S Ople, B. F.

Bernas, J. G. Sarmiento, R V.

Garcia, E. G. Tingson, G. J.

P.M.

Calderon, J. D

Mr. Rosales was sick.

Mr. Villegas notified the Constitutional Commission, through the Secretariat, of his absence.

Mr. Tadeo was sick.

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 read the titles of the following Communications which were, in turn, referred by the Chair to the Committees hereunder indicated:

Communication No. 1037 — Constitutional Commission of 1986

Communication from Mr. Orlando F. Caliolio of Southern City Colleges, Pilar Street, Zamboanga City, proposing for inclusion in the Constitution of a provision granting Filipinos the right to keep and bear arms

TO THE COMMITTEE ON CITIZENSHIP, BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No 1038 — Constitutional Commission of 1986

Letter from Mr. Mario Perez of 37-Aldrin Street, Doña Faustina Village, Culiati, Diliman, Quezon City, saying that if we want to eliminate the U.S Military Bases in the Philippines, we should first eliminate the MNLFs and the NPAs who are supported by foreign countries

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

Communication No. 1039 — Constitutional Commission of 1986

Letter from Mr. Domingo C. Salita, retired professor and former dean, College of Arts and Sciences, U.P.,

recommending that to determine the reasonable compensation of the constitutional officers in the 1986 Constitution, multiply by 10 their compensations under the 1935 Constitution and by 3 under the 1973 Constitution, then get the mean values and round up the figures

TO THE STEERING COMMITTEE

Communication No. 1040 — Constitutional Commission of 1986

Communication from Mrs. Felomena B. Murallon and fourteen (14) other Pilipino teachers of Ozamiz City, urging the Constitutional Commission to incorporate in the Constitution a provision making Pilipino as the national language

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 1041 — Constitutional Commission of 1986

Letter from Ms. Leonora D. Romblon, College of Public Administration, U.P., submitting two resolutions which were culled from the interaction of graduate students in a general assembly organized by the College of Public Administration Student Council, to wit:

Resolution No. 4-86 — proposing to delete Section 4(c) of the proposed Article on Education, Science and Technology, Arts, Culture, and Sports; and to incorporate in the curriculum of elementary and high school students a course on good moral and right conduct; and

Resolution No. 5-86 — proposing the inclusion in the Constitution the following: (1) prohibition of the teaching of religion within the regular class hours; (2) establishment and maintenance of a system of free and quality public education in the elementary, high school and tertiary levels with a nationalist, scientific and mass-oriented perspective, among others.

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 1042 — Constitutional Commission of 1986

Letter from Mr. Carlos E. Santiago of 1009-1011 Solis, Gagalangin, Manila, expressing apprehension over the move of certain members of the Constitutional Commission to include in the Constitution the matter of the status of the U. S. bases in the Philippines, saying that the matter should better be left to the future executive and legislative branches of the Republic rather than include it in the fundamental law of the land

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES MOTION TO VOTE ON THIRD READING ON THE ARTICLE ON EDUCATION, SCIENCE AND TECHNOLOGY, ARTS, CULTURE AND SPORTS

Thereafter, Mr. Rama moved that the Body vote, on Third Reading, on the Proposed Resolution entitled:

Resolution to incorporate in the Constitution an Article on Education, Science and Technology, Arts, Culture and Sports,

mimeographed copies of which were distributed to the Members on September 26, 1986, pursuant to Section 27, Rule VI of the Rules of the Commission.

SUSPENSION OF SESSION

(At this juncture, President Muñoz Palma relinquished the Chair to the Honorable Jose C. Colayco.)

The Chair suspended the session.

It was 10:13 a.m.

RESUMPTION OF SESSION

At 10:14 a.m., the session was resumed.

WITHDRAWAL OF MOTION TO VOTE ON THIRD READING ON THE ARTICLE ON EDUCATION, SCIENCE AND TECHNOLOGY, ARTS, CULTURE AND SPORTS

Upon resumption of session, Mr. Rama requested deferment of voting on said Article to a later time in the day.

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 38 ON PROPOSED RESOLUTION NO. 540 ON THE ARTICLE ON TRANSITORY PROVISIONS

On motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Resolution No. 540 (Committee Report No. 38), entitled:

Resolution to incorporate in the new Constitution an Article on Transitory Provisions.

The Chair recognized the Chairman and Members of the Committee.

On the query of Mr. Rama whether the Committee would be ready to take up Section 5, Mr. Suarez requested for a deferment until the arrival of Mr. Concepcion.

Mr. Rama informed that the Body was in the period of interpellations and amendments on Section 10 of the proposed Article.

INTERPELLATION OF MRS. QUESADA

On Mrs. Quesada's query as to who, among government employees, could avail of separation pay or be entitled to retirement benefits, Mr. Suarez stated that these privileges would be granted to government employees affected by the reorganization resulting from either the Freedom Constitution or the 1986 Constitution. However, he noted that only regular, permanent Civil Service employees would qualify under the provision and not those occupying temporary, casual, contractual positions as well as those who have violated the Civil Service rules and regulations.

Mrs. Quesada observed that some permanent employees of the defunct Batasang Pambansa who served for more than 20 years were prematurely retired but have not received retirement benefits. She opportunity to be reemployed in the government and should therefore be covered by the provision so that they may be duly compensated. She then inquired whether the particular provision would entitle employees forcibly retired to separation pay. She stated that Mr. Davide has an amendment which she would like to coauthor.

In reply, Mr. Suarez stated that all those affected by the reorganization pursuant to the Freedom and the 1986 Constitutions are entitled to benefits. He stated that the Committee would welcome further clarifications to the idea presented by Mrs. Quesada.

Additionally, Mrs. Quesada stressed that due to the policy on retrenchment, many government employees who have lost their jobs could not be reemployed in government, although they have been given priority for reemployment in government offices. She stated that these employees should be given due consideration.

PROPOSED AMENDMENT OF MR. DAVIDE

Mr. Davide proposed the following amendments, to wit:

1. On Section 10, page 2, line 24, delete the words "who may be";
2. On the same Section and page, line 28, delete the phrase "enjoy priority for employment" and in lieu thereof, insert REEMPLOYED, IF THEY ARE QUALIFIED; on line 29, insert after the word "government" the phrase OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS OR THEIR SUBSIDIARIES;
3. On line 29, after the words "separation pay", insert the phrase AT THE RATE OF ONE MONTH SALARY FOR EVERY YEAR OF SERVICE;
4. On line 30, substitute the word "him" with THEM; and
5. On line 31, substitute the word "his" with THEIR and after "separation", add the sentence SUCH RETIREMENT BENEFITS SHALL BE GRANTED REGARDLESS OF NON-COMPLIANCE OF THE AGE REQUIREMENTS UNDER SUCH LAWS.

As amended, the entire Section 10 reads as follows:

CIVIL SERVICE EMPLOYEES SEPARATED FROM THE SERVICE AS A RESULT OF THE REORGANIZATION PURSUANT TO THE PROVISIONS OF ARTICLE III OF PROCLAMATION NO. 3 ISSUED ON MARCH 25, 1986 AND THE REORGANIZATION FOLLOWING THE RATIFICATION OF THIS CONSTITUTION SHALL BE REEMPLOYED, IF THEY ARE QUALIFIED, IN THE GOVERNMENT OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS OR THEIR SUBSIDIARIES, OR BE ENTITLED TO A SEPARATION PAY AT THE RATE OF ONE MONTH SALARY FOR EVERY YEAR OF SERVICE, IN ADDITION TO RETIREMENT AND OTHER BENEFITS ACCRUING TO THEM UNDER THE LAWS THEN IN FORCE AT THE TIME OF THEIR SEPARATION. SUCH RETIREMENT BENEFITS SHALL BE GRANTED REGARDLESS OF NON-COMPLIANCE OF THE AGE REQUIREMENT UNDER SUCH LAWS.

In reply thereto, Mr. Suarez stated that the Committee accepted the deletion of the words "who may be" on line 24. On the matter of reemployment, he noted that in view of the government reorganization, there may be no positions open for the dislocated employees, hence the Committee would suggest that they be given priority for reemployment.

The Committee also accepted Mr. Davide's proposal to insert the phrase OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS OR THEIR SUBSIDIARIES.

On the matter of separation pay, Mr. Suarez opined that Congress or the Executive Department should settle the matter. He noted that although the present labor laws entitle employees in private companies separation pay equivalent to one-half month for every year of service, the Committee does not want to specify in the Constitution any amount with regards to separation pay for government employees so that the government employees would have flexibility in this regard. He informed that the Committee accepted the proposal to change the word "him" to THEIR and that the last sentence proposed by the proponent is, likewise, acceptable.

Mr. Davide then proposed to change the phrase "enjoy priority for employment" to BE REEMPLOYED

WHENEVER THEY ARE QUALIFIED because of the use of the word OR before the words "entitled to a separation pay". He stated that he would not insist on changing the phrase if "or" is changed to AND. He explained that there is a problem inasmuch as government employees are given a choice — to enjoy priority to reemployment which may never come at all or to a separation pay. He maintained that should the employee be reemployed later on, the necessary arrangements may be made on how his separation pay could be refunded.

Mr. Suarez averred that the latest proposed amendment may change the import and significance of the provision inasmuch as the use of AND would give two privileges to the affected employee to enjoy priority for reemployment and be entitled to separation pay. He maintained that once the employee gets his separation pay benefits, he would not be entitled to reemployment in the government. This, he stated, is the inconsistency in the proposal.

Mr. Davide reiterated that if the employee receives the separation pay, he shall lose priority for reemployment, although it would not preclude his reemployment in the government.

Reacting thereto, Mr. Suarez observed that there would only be one choice left to the employee.

In view of the Committee's position, Mr. Davide reformulated his amendment on line 28 so that instead of deleting the phrase "enjoy priority for employment", the word "enjoy" was only changed to the word HAVE. Mr. Suarez stated that the Committee has no objection.

SUSPENSION OF SESSION

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

It was 10:31 a.m.

RESUMPTION OF SESSION

At 11:00 a.m., the session was resumed.

CONSIDERATION OF SECTION 5

Upon resumption of session, while waiting for the reformulation of Section 10, on motion of Mr. Rama, there being no objection, the Body considered Section 5 on the provisions regarding the Supreme Court.

On request of Mr. Suarez, the Chair recognized Mr. Concepcion in connection with the proposals of the Committee on the Judiciary.

REMARKS OF MR. CONCEPCION

Mr. Concepcion pointed out that the Committee proposed Section 5 to read:

THE SUPREME COURT MUST, WITHIN SIX MONTHS AFTER THE RATIFICATION OF, THIS CONSTITUTION, ADOPT A SYSTEMATIC PLAN TO EXPEDITE THE DECISION OR RESOLUTION OF THE ENTIRE BACKLOG OF CASES OR MATTERS FILED WITH THE SUPREME COURT OR THE LOWER COURTS PRIOR TO THE EFFECTIVITY OF THIS CONSTITUTION.

He underscored, however, that majority of the Members of the Commission, the members of the bar, and the people in general are aware of the clamor for measures to eliminate or at least minimize the backlog of cases.

He explained that the cases to be filed after the adoption of this Constitution would already be covered by a provision in the Article on the Judiciary, hence, the need to provide in the Transitory Provisions a proviso that

would effect the disposition of cases already filed before the adoption of the Constitution.

Mr. Concepcion pointed out that the draft submitted by the Committee on Transitory Provisions fixes a period of six months but after considering the number of additional cases which may have been brought before the Supreme Court after the ratification of the Constitution, the members of the Committee on the Judiciary proposed to the Committee on Transitory Provisions to extend the period of six months to one year since a single method may not be applicable to expedite the resolution of all pending cases, specially in the Metropolitan Trial Courts and the Regional Trial Courts. He added that the members of the Committee on the Judiciary expect that the Supreme Court may have to prepare a special plan for particular regions depending upon the extent of the backlog and the prevailing situation in the different areas. Thereupon, he proposed to extend the period of six months to one year and to approve Section 5 as proposed.

INTERPELLATION OF MR. DE CASTRO

Mr. Concepcion agreed with Mr. de Castro's observation that perhaps it would take the Supreme Court at least one year to formulate a plan that would systematically expedite the disposition of all pending cases. Mr. Concepcion explained that this plan may partake of prioritization of pending cases; the adoption of specific plans for specific regions; and the filling up of at least 500 vacant positions for judges. He added that political influence in the appointment of judges should also be eliminated while the Supreme Court should also be given more independence in its administrative functions to create a climate conducive to a more effective and intensive disposition of cases.

In reply to Mr. de Castro's query as to the ramifications in case the vacant positions are not filled up, Mr. Concepcion called attention to the fact that since the proclamation of martial law, the climate for independent administration of justice in the country has been the worst in history for the following reasons: 1) upon proclamation of martial law all judges were required to tender their resignations and those who did not do so were considered notoriously undesirable officers; 2) in 1980 to 1981 there was a reorganization act which was totally unnecessary except to clear the way for the Administration to remove those who were not sympathetic or cooperative with the ruling party and 3) since the February Revolution the members of the bench, particularly those in the lower courts, have continued to be in suspended animation. In view of these, he stressed that the Committee on the Judiciary had inserted a provision to the effect that no reorganization of the judiciary shall be effected and no member of the bench could be removed without due process of law. He opined that, hopefully, the combination of these circumstances would effectively contribute to a more expeditious disposal of cases and a better climate for impartial administration of justice.

Thereupon, Mr. de Castro informed that he has several cases in the Supreme Court which have been pending for several years, for which reason, he has been hoping that a systematic plan could be implemented earlier than one year to expedite their resolution.

INTERPELLATION OF MR. RAMA

Mr. Rama queried as to what may have caused the tremendous backlog of cases, to which Mr. Concepcion replied that the backlog has increased since the declaration of martial law because the past administration monitored all the judges including the Justices of the Supreme Court, for which reason, he filed his voluntary retirement.

Thereafter, Mr. Rama informed that based on the studies he made to determine the cause of this backlog of cases, one of the major reasons why this situation has prevailed is that the Supreme Court is very liberal in accepting petitions for review. He then suggested that the Supreme Court establish a screening committee to weed out those petitions which are, on their face, frivolous and are only intended to delay the resolution of the cases, to which

suggestion and observation, Mr. Concepcion concurred.

On whether the matter had been taken up during the public hearings which some Supreme Court Justices attended, Mr. Concepcion replied in the negative, but he stated that the matter is of common knowledge.

Mr. Rama observed that many lawyers are encouraged to file frivolous appeals precisely because they know that there is a tremendous backlog in the Supreme Court, to which Mr. Concepcion replied that the Committee on the Judiciary had submitted to the Steering Committee a resolution requesting for the reopening of the approval of the Article on the Judiciary precisely to meet the problem head-on. He then requested that the matter be deferred until such time when the Body reconsiders the approval of the Article on the Judiciary.

MR. MAAMBONG'S AMENDMENT TO THE AMENDMENT

Thereupon, Mr. Maambong proposed to reword the proposal so that the same would read as follows:

THE SUPREME COURT SHALL WITHIN ONE YEAR AFTER THE RATIFICATION OF THIS CONSTITUTION ADOPT FOR ITSELF AND THE LOWER COURTS A SYSTEMATIC PLAN TO EXPEDITE THE DECISION OR RESOLUTION OF CASES OR MATTERS PENDING IN THE SUPREME COURT OR THE LOWER COURTS AT THE TIME OF THE EFFECTIVITY OF THIS CONSTITUTION.

Mr. Concepcion accepted the proposal.

INTERPELLATION OF MR. OPLE

Mr. Concepcion agreed with Mr. Ople's observation that the provision approved by the Body in the Article on the Judiciary providing for a three-tiered deadline to prevent the backlog of cases, namely: 24 months for the Supreme Court; 12 months for the lower collegial courts; and 3 months for all lower courts, would serve as the foundation for a strategy to minimize backlog in the future.

Likewise, Mr. Concepcion concurred with Mr. Ople's observation that it would be better to prevent backlogs rather than dispose of the pending cases after they have accumulated to a critical mass.

Mr. Ople pointed out that according to the Office of the Court Administrator, there were 358,961 pending cases in all lower courts as of the end of 1985 and during the same year, the lower courts started with 370,918 cases to which were added 357,552 new cases which means that the lower courts only disposed of a little over one-half of the total of 728,470 cases filed. He then queried whether this Sisyphean task requires more than the customary standard of zeal and diligence in public service and a deeper examination of the causes of backlog.

Replying thereto, Mr. Concepcion agreed that to resolve the tremendous backlog would require deeper studies into its causes rather than merely improving the efficiency of the judges. He appealed to the Body to defer the discussions on backlog until such time that the Article on the Judiciary would be reconsidered.

In reply to Mr. Ople's query whether a similar Systematic plan could also be applied to quasi-judicial bodies like the National Labor Relations Commission which also has many pending cases, Mr. Concepcion informed that in the Article on the Judiciary, there is a plan to revert to the old composition of the Supreme Court from 11 to 15 with authority, at its own discretion, to act in divisions of three, five or seven. He added that if they organize into divisions with three members then there would be five divisions, one of which could be assigned to resolve minor cases like ejectment and labor cases.

Mr. Ople informed that the U.S. Supreme Court limits itself to the resolution of a maximum of 900 cases a year. He then queried whether a more discriminatory approach with respect to the cases which could be entertained by

the country's Supreme Court would also contribute to the elimination of backlogs to which Mr. Concepcion replied that the Committee on Social Justice would also propose to eliminate appeals and only permit review on certiorari so that from the very beginning, the Court could decide whether it would give due course to the petition or not.

At this juncture, Mr. Nollado sought permission to interpellate Mr. Concepcion.

SUSPENSION OF SESSION

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

It was 11:34 a.m.

RESUMPTION OF SESSION

At 11:35 a m., the session was resumed.

INTERPELLATION OF MR. NOLLEDO

Adverting to Section 14 of the Article on the Judiciary, Mr. Nollado pointed out that no effect has been provided with respect to pending cases, the period of which would lapse before the ratification of the Constitution, while Section 11, Article X of the 1973 Constitution provides an effect should the period lapse without the case being decided by the proper courts, in which case, the decision of the appealed case shall be deemed affirmed.

In reply, Mr. Concepcion stated that the Article on the Judiciary provides an effect but that it does not properly pertain to the Transitory Provisions.

On whether "appropriate judicial proceedings" would refer to the court where the appeal is pending, Mr. Concepcion stated that it would be a justiciable question barring the Constitutional Commission from determining jurisdiction. He expressed the hope that the Rules of Court and the laws on the Judiciary would settle this matter on jurisdiction.

On the periods within which the courts shall have to decide or resolve the pending cases, Mr. Nollado stated that Section 11 of the 1973 Constitution is merely considered directory by the Supreme Court but the Committee on the Judiciary made it mandatory.

On whether it would be feasible to withhold the applicability of the periods until after the mechanism for expeditious determination of these cases is done by the Supreme Court, Mr. Concepcion replied in the negative, stating that this is the reason for the proposed amendments.

He affirmed that pending the lapse of one year, the period set forth in the Article on the Judiciary shall be mandatory even before the mechanism is determined.

He informed the Body that the Committee was a bit reluctant to make it "mandatory" because it would be a little harsh to the Supreme Court, the prestige of which is also the prestige of the Republic of the Philippines.

REMARKS OF MR. REGALADO

Mr. Regalado stated that Mr. Concepcion had already raised the points on the text itself and these should be deferred until after the petition to reopen shall have been approved.

He, likewise, stated that after conferring with Mr. Maambong, they had reached an agreement on the wordings thereof.

MOTION TO DEFER CONSIDERATION OF SECTION 5

Adverting to the explanations of Mr. Concepcion that the section would properly pertain to the Article on the Judiciary rather than to the Transitory Provisions, he moved to defer consideration of Section 5 until the matter on the Article on the Judiciary is reopened. Objecting thereto, Mr. Ople stated that Section 5 could stand independently since it provides for the remedy on backlog of cases.

MODIFIED AMENDMENT OF MR. OPLE

Adverting to the remarks that a similar plan should be adopted for all quasijudicial agencies, Mr. Ople proposed to add A SIMILAR PLAN SHALL BE ADOPTED FOR ALL QUASI-JUDICIAL AGENCIES.

In reply to Mr. Regalado's query on whether the Supreme Court would formulate the plan, Mr. Ople stated that it would, under the guidance of the Supreme Court, but that the plans themselves would have to be adopted by the ministries, such as the Office of the President to which these quasi-judicial bodies may be attached.

Mr. Suarez accepted the modification.

RESTATEMENT OF SECTION 5

Upon request of Mr. Rama, Mr. Suarez restated Section 5 as modified, to wit:

THE SUPREME COURT SHALL, WITHIN ONE YEAR AFTER THE RATIFICATION OF THIS CONSTITUTION, ADOPT FOR ITSELF AND THE LOWER COURTS A SYSTEMATIC PLAN TO EXPEDITE THE DECISION OR RESOLUTION OF CASES OR MATTERS PENDING IN THE SUPREME COURT OR THE LOWER COURTS AT THE TIME OF THE EFFECTIVITY OF THIS CONSTITUTION. A SIMILAR PLAN SHALL BE ADOPTED FOR ALL QUASI-JUDICIAL AGENCIES.

MODIFICATION OF MR. JAMIR

Mr. Jamir proposed to substitute "shall" to MUST to prevent the Supreme Court from interpreting "shall" as merely directory, which the Committee accepted.

In concurrence thereto, Mr. Ople stated that he would be contented to have "shall" in the final sentence in order to ensure that quasijudicial agencies are ranked lower than the regular courts.

Commenting against the substitution, Mr. Concepcion pointed out that the change of "shall" to MUST would create another problem because of the confusion on whether it is mandatory or merely directory.

He stated that he prefers Mr. Ople's original term "shall", recalling what he overheard from the Members of the Supreme Court during its last conference that they are aware of possible impeachment should they violate the mandatory provision of the Constitution.

INQUIRY OF MS. AQUINO

In reply to Ms. Aquino's query whether it would still be necessary to provide for a section in the Transitory Provisions considering that Section 9 of the Article on the Judiciary would be sufficient to answer for the concern expressed, Mr. Concepcion stated that it would be necessary to convey to the Members of the Supreme Court that the periods provided are mandatory in nature.

He observed that the term is harsh but that it has to be done.

INQUIRY OF MR. DE CASTRO

Adverting to subparagraph (1), Section 14 of the Article on the Judiciary, Mr. de Castro pointed out that the word "must" is used to connote a mandate. He suggested maintaining the use of "must" on the proposed Section 5 for purposes of uniformity, in reply to which, Mr. Concepcion stated that "must" could be used but it would be dangerous to do so since it would lead to confusion as to which term connotes a mandate or a mere direction.

On the possibility of transposing Section 5 to the Article on the Judiciary, Mr. Suarez stated that it properly pertains to the Transitory Provisions because of its transitory character.

REMARKS OF MR. ABUBAKAR

In support of Mr. Concepcion's remarks on the use of "shall", Mr. Abubakar adverted to the rulings of the Philippine and United States Supreme Courts as well as opinions of American political scientists stating that "shall" is not permissive but directory and compulsive and that "must" is too strong and pervasive that it should not be used in the Constitution.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's query whether Mr. Ople's modification is a mandate on the Supreme Court, Mr. Suarez adverted to Mr. Ople's explanation that it is to urge the Supreme Court to guide, supervise and convince quasijudicial agencies to formulate a systematic plan.

Mr. Davide pointed out, however, that the Supreme Court does not have administrative supervision over quasijudicial bodies, suggesting that it be inserted in other provisions and not directly under the section relating to the Supreme Court.

Reacting thereto, Mr. Maambong invited Mr. Davide's attention to the fact that he was the one who caused the insertion of a provision in the Article on the Judiciary, in reply to which, Mr. Davide clarified that paragraph 5, Section 7 of the Article on the Judiciary relates only to the function of the Supreme Court to review the Rules of Procedure of special courts and quasijudicial bodies.

Mr. Maambong stated that the issue about the formulation of a systematic plan, likewise, refers to procedure. He inquired whether it is the intention to recast it on paragraph 5, Section 7 of the Article on the Judiciary.

In reply thereto, Mr. Davide stated that his proposal is not to recast or to transfer but to make it a separate paragraph and not a continuation of the first sentence. Mr. Maambong informed that it had been made a separate paragraph.

In view thereof, Mr. Davide proposed before the word "quasi-judicial" to add the words SPECIAL COURTS AND to align it with paragraph 5 of Section 7 and that instead of "agencies" it should be BODIES.

Mr. Davide affirmed that the sentence would then read "A similar plan shall be adopted for all other SPECIAL COURTS and quasi-judicial BODIES."

Mr. Ople manifested support of the amendment, which the Committee accepted.

APPROVAL OF SECTION 5

Thereupon, upon direction of the Chair, Mr. Suarez restated the reformulated Section 5, to wit:

THE SUPREME COURT MUST, WITHIN ONE YEAR AFTER THE RATIFICATION OF THIS

CONSTITUTION, ADOPT FOR ITSELF AND THE LOWER COURTS A SYSTEMATIC PLAN TO EXPEDITE THE DECISION OR RESOLUTION OF CASES OR MATTERS PENDING IN THE SUPREME COURT OR THE LOWER COURTS AT THE THE OF THE EFFECTIVITY OF THIS CONSTITUTION.

A SIMILAR PLAN SHALL BE ADOPTED FOR ALL SPECIAL COURTS AND QUASI-JUDICIAL BODIES.

Submitted to a vote, and with 34 Members voting in favor and none against, Section 5 was approved by the Body.

CONSIDERATION OF SECTION 10

Mr. Suarez informed that copies of the reformulated Section 10 have been distributed to the Members and reads as follows:

CAREER CIVIL SERVICE EMPLOYEES SEPARATED FROM THE SERVICE NOT FOR CAUSE BUT AS A RESULT OF THE REORGANIZATION PURSUANT TO THE PROVISIONS OF ARTICLE III OF PROCLAMATION NO. 3 ISSUED ON MARCH 25, 1986 AND THE REORGANIZATION FOLLOWING THE RATIFICATION OF THIS CONSTITUTION, MAY BE CONSIDERED FOR EMPLOYMENT IN THE GOVERNMENT OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES, OR TO BE ENTITLED TO APPROPRIATE SEPARATION PAY, IN ADDITION TO RETIREMENT AND OTHER BENEFITS ACCRUING TO THEM UNDER THE LAWS OF GENERAL APPLICATION THEN IN FORCE AT THE TIME OF THEIR SEPARATION. THIS PROVISION ALSO APPLIES TO CAREER OFFICERS WHOSE RESIGNATIONS, TENDERED IN LINE WITH THE EXISTING POLICY, HAD BEEN ACCEPTED.

Mr. Suarez manifested that the proponents of the reformulated Section 10 are Messrs. Ople, Davide, Monsod, Mrs. Quesada, Messrs. de los Reyes, Maambong, Foz and Lerum.

Mr. Davide suggested to insert SHALL in lieu of "to" before the words "be entitled" so as to reflect the change of priority so that the line would read "or SHALL be entitled to appropriate separation pay."

INQUIRY OF MR. RAMA

Mr. Rama inquired whether with the use of the words "may be", the right to be reemployed in the government included in the Section would be merely directory and not mandatory, Mr. Suarez affirmed that it would be directory. On whether in the phrase "shall be entitled to appropriate separation pay" is also merely directory, Mr. Suarez explained that what is directory is only the matter of consideration for reemployment but receiving separation pay connotes a mandatory character.

INQUIRY OF MR. FOZ

On Mr. Foz' query whether "career civil service employees" as used in Section 10 would be in consonance with the scope of the term as embodied in Section 5, Article V of Presidential Decree No. 807 known as the New Civil Service Law, Mr. Suarez replied in the affirmative.

INQUIRY OF MR. AZCUNA

Mr. Azcuna asked whether a dislocated government employee could only choose between reemployment or separation pay inasmuch as the term "or shall be entitled" has been used.

In reply, Mr. Suarez explained that an employee separated due to reorganization may apply for a job opening in government and, if qualified, it would be the discretion of the department head to accept or reject his application.

Should that employee be reemployed, Mr. Suarez maintained that it would not preclude him from availing of the separation pay.

On whether there is a need to return the separation pay in case of reemployment, Mr. Suarez clarified that there is no need to return the same, except that should the separation be due to reorganization, he would not be entitled to the unexpired portion of the separation pay which he had already received.

INQUIRY OF MR. PADILLA

On the query of Mr. Padilla whether there is a need for a specific reference to Proclamation No. 3 and not merely state "result of the reorganization following the ratification of this Constitution", Mr. Suarez, on behalf of the Committee, replied that it is necessary, inasmuch as there are two stages of re-organization covered by the Section.

Mr. Padilla pointed out that since the proposals of the Commission on Government Reorganization have not been implemented yet, it would be better to use the phrase "reorganization before or after the ratification of the Constitution" to simplify the Section. Mr. Suarez instead suggested the phrase "as a result of the reorganization effected before or after the ratification of the Constitution" on the understanding that the provision would apply to employees terminated because of the reorganization pursuant to Proclamation No. 3 and even those affected by the reorganization during the Marcos regime. Additionally, Mr. Suarez pointed out that it is also for this reason that the Committee specified the two Constitutions — the Freedom Constitution and the 1986 Constitution.

REMARKS OF MR. JAMIR

Mr. Jamir observed that the provision can be shortened with the deletion of the words "to the provisions of Article III of".

In reply, Mr. Suarez affirmed that the Committee is thinking of merely stating "Proclamation No. 3" instead of using the phrase "the provisions of Article III of Proclamation No. 3".

PROPOSED AMENDMENT OF MR. PADILLA

Mr. Padilla observing that the first sentence is quite long, proposed two sentences, the first sentence pertaining to civil service employees who are entitled to priority employment and the other for employees who are not employed but entitled to separation pay, retirement and other benefits.

Mr. Padilla observed that the words "in addition to" may be eliminated so that the line would read SEPARATION PAY, RETIREMENT AND OTHER BENEFITS ACCRUING TO THEM UNDER THE LAW OF GENERAL APPLICATION THEN IN FORCE AT THE TIME OF THEIR SEPARATION.

Mr. Padilla further proposed to put a period after the word "subsidiaries" and the next sentence would read: THOSE WHO ARE NOT SO EMPLOYED SHALL BE ENTITLED TO SEPARATION PAY.

Mr. Suarez noted that the Committee has no objection to the deletion of the phrase "in addition to" although it would lose its essential characteristics if placed in a separate sentence.

INQUIRY OF MS. AQUINO

Ms. Aquino sought clarification on the intention of the Committee. She observed that career civil service employment has a system of ranking and classification and inquired whether this would be respected in case of rehiring or reemployment, to which Mr. Suarez replied in the affirmative.

Mr. Suarez also affirmed that the provision is self-executing.

PROPOSED AMENDMENT OF MR. MONSOD

Mr. Monsod observed that the Section has two parts — the first referring to "appropriate separation pay" which is mandatory and the second part referring to "employment" which is discretionary.

He then suggested, in accordance with the proposal of Mr. Padilla, to place after the phrase "and the reorganization following the ratification of this Constitution" the clause **SHALL BE ENTITLED TO APPROPRIATE SEPARATION PAY AND TO RETIREMENT AND OTHER BENEFITS ACCRUING TO THEM UNDER THE LAWS OF GENERAL APPLICATION THEN IN FORCE AT THE TIME OF THEIR SEPARATION.**

The second sentence, he informed, would be: **IN LIEU THEREOF THEY MAY BE CONSIDERED FOR EMPLOYMENT IN THE GOVERNMENT OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES.**

The third sentence would then be: **THE PROVISION ALSO APPLIES TO CAREER OFFICERS WHOSE RESIGNATIONS TENDERED IN LINE WITH THE EXISTING POLICY HAD BEEN ACCEPTED.**

MR. REGALADO'S AMENDMENT TO THE AMENDMENT

Instead of the phrase "accruing to them under the laws of general application then in force", Mr. Regalado proposed the clause **ACCRUING TO THEM UNDER THE APPLICABLE LAWS IN FORCE AT THE TIME OF THEIR SEPARATION.**

Mr. Monsod remarked that it would not convey the right message inasmuch as what the Body is trying to avoid are certain presidential decrees or special laws which gave special gratuities to certain officers of certain offices. He observed that with the use of the phrase "of general application", such laws cannot be availed of or invoked. He adverted to employees of the Commission on Elections (COMELEC) who had been given substantial gratuities by Presidential decree.

Mr. Regalado then inquired as to how laws of general application can be conceptualized or illustrated which could be the basis of the retirement or gratuity benefits.

In reply, Mr. Monsod pointed out that there are certain laws like the GSIS Law which would apply to everyone in the Career Civil Service.

The Committee accepted the proposal of Mr. Monsod.

Upon direction of the Chair, Mr. Monsod stated Section 10, as amended, to wit:

CAREER CIVIL SERVICE EMPLOYEES SEPARATED FROM THE SERVICE NOT FOR CAUSE BUT AS A RESULT OF THE REORGANIZATION PURSUANT TO PROCLAMATION NO. 3 ISSUED ON MARCH 25, 1986 AND THE REORGANIZATION FOLLOWING THE RATIFICATION OF THIS CONSTITUTION A SHALL BE ENTITLED TO APPROPRIATE SEPARATION PAY AND TO RETIREMENT AND OTHER BENEFITS ACCRUING TO THEM UNDER THE LAWS OF GENERAL APPLICATION IN FORCE AT THE TIME OF THEIR SEPARATION. IN LIEU THEREOF, THEY MAY BE CONSIDERED FOR EMPLOYMENT IN THE GOVERNMENT OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR

SUBSIDIARIES. THIS PROVISION ALSO APPLIES TO CAREER OFFICERS WHOSE RESIGNATIONS TENDERED IN LINE WITH EXISTING POLICY HAD BEEN ACCEPTED.

Mr. Davide observed that under the reformulation the separated employees shall be at the mercy of the government inasmuch as the second sentence would, in effect, allow the government to exercise the option to reemploy them. He then proposed that the second sentence begin with OR IN LIEU THEREOF, GIVE THEM THE OPTION, thereby giving the option to the individual and not to the government.

Mr. Monsod argued that the words "in lieu thereof, they may be considered" assume that the employee wants to be considered. He noted that it does not say that the government shall employ them.

Mr. Davide then suggested deleting "in lieu thereof" and inserting THEY MAY LIKEWISE.

Mr. Monsod remarked that the original intent was an alternative so that if the individual applies and is then reemployed, he would not be entitled to retirement pay. Mr. Davide stressed that the option should not be given to the government.

Thereupon, Mr. Monsod proposed IN LIEU THERE OF, AT THE OPTION OF THE EMPLOYEE, HE MAY BE CONSIDERED, which was accepted by Mr. Davide.

INQUIRY OF MR. SARMIENTO

Mr. Sarmiento inquired under what classification would justices and judges who are presidential appointees be covered.

In reply thereto, Mr. Foz informed that they would fall under the provision which reads:

CAREER OFFICERS OTHER THAN THOSE IN THE CAREER EXECUTIVE SERVICE WHO ARE APPOINTED BY THE PRESIDENT . . .

He stated that Mr. Nollado had informed him that members of the Judiciary are covered by the Judiciary Reorganization Act.

Upon inquiry of Mr. Sarmiento, Mr. Suarez affirmed that justices and judges who have resigned shall not be covered by the Section.

APPROVAL OF THE REFORMULATED SECTION 10

Thereupon, Mr. Monsod restated the reformulation of Section 10, to wit:

SECTION 10. CAREER CIVIL SERVICE EMPLOYEES SEPARATED FROM THE SERVICE NOT FOR CAUSE BUT AS A RESULT OF THE REORGANIZATION PURSUANT TO PROCLAMATION NO. 3 ISSUED ON MARCH 25, 1986 AND THE REORGANIZATION FOLLOWING THE RATIFICATION OF THIS CONSTITUTION SHALL BE ENTITLED TO APPROPRIATE SEPARATION PAY AND TO RETIREMENT AND OTHER BENEFITS ACCRUING TO THEM UNDER THE LAWS OF GENERAL APPLICATION IN FORCE AT THE TIME OF THEIR SEPARATION. IN LIEU THEREOF, AT THE OPTION OF THE EMPLOYEES THEY MAY BE CONSIDERED FOR EMPLOYMENT IN THE GOVERNMENT OR IN ANY OF ITS SUBDIVISION, INSTRUMENTALITY OR AGENCY INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND THEIR SUBSIDIARIES. THIS PROVISION ALSO APPLIES TO CAREER OFFICERS WHOSE RESIGNATIONS TENDERED IN LINE WITH THE EXISTING POLICY HAVE BEEN ACCEPTED.

Submitted to a vote, and with 35 Members voting in favor and none against, Section 10, as amended was approved by the Body.

APPROVAL ON THIRD READING OF THE ARTICLE ON EDUCATION, SCIENCE AND TECHNOLOGY, ARTS, CULTURE AND SPORTS

On motion of Mr. Rama, there being no objection, the Body, proceeded to vote, on Third Reading, on Committee Report No. 29, entitled:

Resolution to incorporate in the Constitution an Article on Education, Science and Technology, Arts, Culture, and Sports.

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

EXPLANATION OF VOTES:

By Mr. Padilla

Mr. Padilla voted in the affirmative, but he opined that Spanish should have been included as one of the official languages, so that the provision should have been "For purposes of communication and instruction, the official languages of the Philippines are Filipino and, until otherwise provided by law, English and Spanish."

By Mr. Villacorta

Mr. Villacorta voted Yes, and explained that the Journal of the Commission would show that Spanish was not included as an official language.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor:

Abubakar Gascon

Aquino Guingona

Azcuna Jamir

Bengzon Laurel

Bennagen Lerum

Rosario Braid Maambong

De Castro Monsod

Colayco Nieva

Concepcion Nollado

Davide Ople

Foz Padilla

Garcia Muñoz Palma

Quesada Suarez

Rama Sumulong

Regalado Treñas

De los Reyes Uka

Romulo Villacorta

Sarmiento

Against:

None

With 35 Members voting in favor and none against, the Body approved, on Third Reading, the Article on Education, Science and Technology, Arts, Culture and Sports, as amended.

SUSPENSION OF SESSION

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

It was 12:41 p.m.

RESUMPTION OF SESSION

At 3:05 p.m., the session was resumed with the Honorable Francisco A. Rodrigo presiding.

Upon resumption of session, Mr. Suarez read Section 11 as follows:

ALL RECORDS, EQUIPMENT, BUILDINGS, FACILITIES AND OTHER PROPERTIES OF THE OFFICE OF THE PRIME MINISTER AND THE DEFUNCT BATASANG PAMBANSA AND INTERIM BATASANG PAMBANSA ARE HEREBY TRANSFERRED TO CONGRESS.

Mr. Maambong informed that the Section was based on Resolution No. 487 filed by Mr. Davide pursuant to Section 4, Article III of the Freedom Constitution.

AMENDMENT OF MR. DAVIDE AS MODIFIED BY MR. SUAREZ

Mr. Davide proposed to delete "and interim Batasang Pambansa" since it was replaced by the regular Batasang Pambansa.

Mr. Suarez, however, suggested that it would be better to insert INCLUDING THOSE OF THE INTERIM BATASANG PAMBANSA comma (,).

Mr. Davide accepted the proposal.

In reply to Mr. Jamir's query whether the properties of the Speaker are included in the enumeration, Mr. Suarez replied in the affirmative.

AMENDMENT OF MR. DAVIDE JOINTLY WITH MR. NOLLEDO

Mr. Nollado stated that by virtue of the 1976 Amendments to the Constitution, the Supreme Court ruled in the case of Free Telephone Workers' Union vs. Minister of Labor and Employment that the country's system of government is truly presidential and not parliamentary and that the Office of the Prime Minister pertains to the

Office of the President. He then queried whether it would be appropriate to apply Section 11 to the Office of the Prime Minister inasmuch as it already formed part of the Office of the President and, therefore, its documents and properties should not go to Congress.

Reacting thereto, Mr. Davide opined that in order to avoid any doubt about the possible interpretation of the Section, he would withdraw the same and substitute it with the following:

SECTION 11. ALL RECORDS, EQUIPMENT, BUILDINGS, FACILITIES, AND OTHER PROPERTIES OF ANY OFFICE OR BODY ABOLISHED OR REORGANIZED UNDER PROCLAMATION NO. 3 ISSUED ON MARCH 25, 1986 OR THIS CONSTITUTION SHALL BE TRANSFERRED TO THE OFFICE OR BODY TO WHICH ITS POWERS, FUNCTIONS, AND RESPONSIBILITIES SUBSTANTIALLY PERTAIN.

Mr. Suarez accepted the proposal.

In reply to Mr. Romulo's query as to what would happen to the liabilities or obligations of the Batasang Pambansa, Mr. Davide opined that the liability cannot be transferred to the new Congress because it would be within the budgetary obligations of the national government. He added that the claims against the former Batasan Speaker is not really a claim of the agency but rather a claim of the national government against whoever may have to account for the funds of the Batasang Pambansa.

On whether this would include the possible claims of the employees of the Batasang Pambansa such as separation pay, Mr. Davide stated that he is not in a position to answer the query. He then referred it to the Committee, to which Mr. Suarez stated that Section 11 is only limited to "records, equipment, buildings, facilities, and other properties" and does not refer to liabilities and/or accountabilities of the offices that may have already been abolished. Mr. Suarez further stated that it may not be fair to the next Congress to be made answerable for the liabilities of those offices which may have already been abolished.

On Mr. Rama's query whether he had checked if President Aquino would accept the documents, properties, etc. from the Office of the Prime Minister, Mr. Nollado replied that the reason why he suggested that Mr. Davide make adjustments on his proposal is to avoid future legal entanglements, hence, the query is beside the issue.

At this juncture, Mr. Azcuna inquired whether "properties" include land, to which Mr. Suarez replied that it falls within the classification of "other properties".

Mr. Azcuna insisted that LANDS should be inserted because the enumeration does not refer real estate.

Mr. Maambong maintained that the lands usually occupied by government offices are administered to and owned by the national government. He added that land owned by a particular office is an exception which the Committee may consider as a possible amendment.

Thereupon, Mr. Azcuna proposed to insert LANDS between "equipment" and "buildings".

Mr. Nollado opined that it is not necessary to insert LANDS because its use alone is property in itself, hence, whether it is the use or the land itself that should be transferred would not matter much.

Mr. Maambong, however, suggested that perhaps it could be simply stated in the records that lands are included.

Mr. Azcuna, however, suggested that the Body could also state ALL PROPERTIES and add AND OTHER ASSETS.

Mr. Davide accepted the proposal.

Thereupon, Mr. Maambong read Section 11, as amended, to wit:

SECTION 11. ALL PROPERTIES, RECORDS, EQUIPMENT, BUILDINGS, FACILITIES, AND OTHER ASSETS OF ANY OFFICE OR BODY ABOLISHED OR REORGANIZED UNDER PROCLAMATION NO. 3 ISSUED ON MARCH 25, 1986 OR THIS CONSTITUTION SHALL BE TRANSFERRED TO THE OFFICE OR BODY TO WHICH ITS POWERS, FUNCTIONS, AND RESPONSIBILITIES SUBSTANTIALLY PERTAIN.

Mr. Padilla stated that the new formulation is based on Section 14 of the 1973 Constitution referring to any office or body and that Section 11 of the Committee Report makes specific reference to the Office of the Prime Minister and the Legislative.

Replying thereto, Mr. Maambong stated that the original Committee proposal made reference to the Office of the Prime Minister, the regular Batasang Pambansa and the interim Batasang Pambansa but it accepted Mr. Davide's proposal to simply state a general provision.

In reply to Mr. Regalado's query as to what would happen if no office would assume the responsibility of an abolished government office, Mr. Maambong Stated that it would go to the Ministry of General Services and in case the properties would become idle, they would go to the Board of Liquidators.

Mr. Regalado proposed to add a comma (,) and rephrase OR AS MAY BE PROVIDED BY LAW after "pertain" to take care of those situations wherein no new office would take over the functions and responsibilities of the abolished office.

Submitted to a vote, and with 31 Members voting in favor, and none against, the Body approved Section 11, as amended.

PROPOSED AMENDMENT OF MR. BERNAS

Mr. Bernas proposed to add a new sentence to Section 12 to read as follows: THE PRESENTATION FOR RATIFICATION, HOWEVER, SHALL BE IN THREE DISTINCT PARTS; 1) THE ARTICLE ON SOCIAL JUSTICE, 2) THE ARTICLE ON NATIONAL ECONOMY; AND 3) ALL THE REST.

Mr. Bernas explained that the first two articles are the most controversial ones and by separating the approval of the Constitution into three parts, the people would have the opportunity for individualized judgment. He pointed out that one advantage of this is that if the controversial articles are separately ratified by the people, then they would be the stronger articles and if these would be rejected by the people, then the country would still have a Constitution which is complete.

INQUIRIES OF MR. DE LOS REYES

In reply to Mr. de los Reyes' query whether the term of office of the incumbent President and Vice-President would be included in the proposed amendment, Mr. Bernas stated that it would be a responsibility if proper reservation is made, depending on the results of the discussions on Section 7.

Mr. Bernas affirmed that if the Body so decides to treat the question of incumbency as a separate question in Section 7, assuming that his proposed amendment is approved, four separate packages shall be accommodated therein.

Mr. de los Reyes suggested to defer the discussions on Mr. Bernas' proposed amendment to Section 12 until after Section 7 shall have been discussed.

He affirmed that the discussions on the entire Section 12 would have to be deferred, to which Mr. Bernas agreed.

INQUIRY OF MR. GUINGONA

In reply to Mr. Guingona's query whether Mr. Bernas' proposed amendment could be discussed during the consideration of the Article on Amendments considering that it speaks of ratification, the latter pointed out that his proposed amendment is a transitory provision as it self-destructs after the plebiscite.

INQUIRIES OF MR. MONSOD

Adverting to the criteria for separating certain articles according to the controversial nature of the provisions, Mr. Monsod inquired whether any vote on any issue that could be separated would, therefore, be the standard for determining if they should be voted upon separately, in reply to which, Mr. Bernas stated that the controversial nature is one criterion and the other would be whether they could be separated from the rest of the Constitution.

On the bases issue, he stated that what made it controversial is their absolute ban.

Mr. Monsod inquired on the firmness and clarity of the criteria considering that the records show that it is one of the issues where nominal voting was conducted, in reply to which, Mr. Bernas stated that if the proposal is to separate the bases issue, he would not object thereto.

On the issue of language, Mr. Bernas stated that the Body could debate on it.

On bicameralism and unicameralism, Mr. Bernas stated that it would be difficult to separate it from the rest but that it could be reopened provided that the Rules are suspended.

Mr. Monsod commented that the records would show that there are many controversial subjects other than the two Articles mentioned which are not so essential in running the government.

Reacting thereto, Mr. Bernas stated that the two Articles are central to the life of the nation, for which reason, they should be separated.

On the subject of the CHDF, Mr. Bernas stated that it would be an isolated instance and it is not as central as the two Articles mentioned so that it could be handled by ordinary executive action.

On whether a rule should be followed by the Members not to speak against each other's position regarding the separated clauses during the campaign for the ratification of the Constitution, Mr. Bernas stated that he would be against it because it violates the freedom of the speech.

He affirmed the possibility of having two Members on the same stage speaking against each other stating that it would be completely reflective of the truth.

SUGGESTION OF MR. MAAMBONG

Mr. Maambong suggested that the Body proceed to another section considering that Mr. Bernas had agreed to defer consideration of his proposed amendment.

In reply to the Chair's query whether consideration thereof had been deferred, Mr. Suarez replied in the negative.

Reacting thereto, Mr. Bernas stated that he would not object to the request of Mr. de los Reyes to defer consideration.

Thereupon, Mr. de los Reyes formally moved for deferment of consideration of Mr. Bernas' proposed amendment.

Mr. Bengzon moved that Mr. de los Reyes' motion be submitted to a vote.

Submitted to a vote, and with 26 Members voting in favor, none against and 2 abstentions, the Body approved Mr. de los Reyes' motion to defer consideration of Mr. Bernas' proposed amendment.

INQUIRY OF MR. RIGOS

In reply to Mr. Rigos' query whether the deferment of the proposed amendment of Mr. Bernas implies also the deferment of consideration on Section 12, Mr. de los Reyes replied in the affirmative.

Additionally, Mr. Suarez stated that Mr. Bernas' proposal would be the second sentence of Section 12.

SUGGESTION OF MR. MAAMBONG

Mr. Maambong stated that there was an agreement to defer consideration of Sections 7 and 8, but since there are some sections which are not very controversial, he suggested that the Body consider them first.

In reply to Mr. Rama's query on the noncontroversial sections, Mr. Maambong adverted to Mr. Davide's proposal on the first election for Senators and Members of the House of Representatives.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 3:49 p.m.

RESUMPTION OF SESSION

At 3:51 p.m., the session was resumed.

Upon resumption of session, Mr. Rama stated that according to the Committee, there are some unnumbered or additional sections for the Transitory Provisions and requested that the Committee present the proposed amendments.

RESTATEMENT OF MR. DAVIDE'S PROPOSAL

Mr. Maambong read Mr. Davide's proposed amendment as follows:

THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES AND THE LOCAL OFFICIALS ELECTED IN THE FIRST ELECTION SHALL SERVE FOR FIVE YEARS, TO EXPIRE AT NOON OF JUNE _____, 1992.

He stated that for purposes of identification, the proposed Section shall be denominated temporarily as Section 14. Thereupon, he moved that Mr. Davide be recognized.

REFORMULATION BY MR. DAVIDE

Mr. Davide stated that in view of the Committee's action on Section 2, he reformulated his proposal to read as follows:

THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES AND THE LOCAL OFFICIALS FIRST ELECTED UNDER THIS CONSTITUTION SHALL SERVE UNTIL NOON OF JUNE 30, 1992.

He stated that his proposal is in line with the proposed section on the Article on Transitory Provisions granting the incumbent President and Vice President a term up to 1992. He stated that his proposal would enable the country to

synchronize the elections for national and local officials in 1992, in effect, giving a bonus of two years to the members of the Lower House and local elective officials.

REMARKS OF MR. DE CASTRO

Mr. de Castro remarked that he had proposed the same setup during the discussions on the Legislative and on synchronization of elections, and that Mr. Davide's proposal is in order.

INQUIRIES OF MR. GUINGONA

Pointing out that Mr. Davide's proposed amendment is to have synchronization of elections, Mr. Guingona stated that the Body has not yet taken up Section 7 which pertains to the proposed provision on the term of the incumbent President and Vice-President.

Reacting thereto, Mr. Davide stated that the Committee proposal is marked with an asterisk which means that it is subject to synchronization of elections. He affirmed that what should be synchronized would be the election of the incumbent President and Vice-President in 1992.

On whether the election of the senators and local officials would be synchronized, Mr. Davide stated that his proposed scheme works both ways on the assumption that the Transitory Provisions on the term of the incumbent President and Vice-President would really end in 1992, and that a single election in 1992 would then be held from the President down to the municipal officials.

On whether elections would be held before February or June, Mr. Davide stated that while he is not certain on the date of the elections, the assumption of office will be on June 30, 1992.

On whether it would apply to the new President and Vice-President, Mr. Davide stated that he is not in a position to answer the query because it would be subject to further discussions.

Mr. Guingona pointed out that should the Body decide with synchronization in mind, the term of Office of the next elected President and Vice-President would begin in June, 1992, thus extending the tenure of the incumbent President and the Vice-President to June, 1992.

Reacting thereto, Mr. Davide stated that there would be a holdover up to June 30, 1992 starting February 25, 1992.

INQUIRY OF MR. AZCUNA

In reply to Mr. Azcuna's query whether it would be necessary to state "five years" since it has been approved that the President shall provide for the Schedule of elections for elective local officials which play not coincide with that of national officials, Mr. Davide stated that he had reformulated his proposal.

INQUIRIES OF MR. SUAREZ

In reply to Mr. Suarez' query whether the positions of Senators, Members of the House of Representatives, local officials and of the President and the Vice-President would be affected, Mr. Davide answered in the affirmative stating that the term of the first Senators would be reduced from six to five years, while that of the Members of the Lower House and local officials would be increased from three to five years.

Mr. Davide also affirmed that under his proposal, the President and Vice-President would have a holdover of four months, but to avoid the possibility of stating this, their terms shall be defined to end June 30, 1992 in Section 7.

Mr. Suarez observed that the Members' of Congress and local officials would, in effect, be given an additional two years while the term of the Senators would be reduced to five years, which Mr. Davide affirmed.

On Mr. de Castro's contention that the first 12 Senators who shall serve for six years would be affected; Mr. Davide pointed out that the five-year term shall apply to the first 24 Senators to be elected. He stated that there will be no staggering of terms before 1992, which staggered term would begin only when, of the 24 Senators to be elected, the first 12 Senators obtaining the highest number of votes shall serve for six years and the last 12 shall serve for three years. He stated that every three years thereafter, there shall be an election.

On the query of Mr. Suarez, Mr. Davide affirmed that under his proposal, there will be no local or national elections from 1987 to 1992 and that the second local and national elections shall be held prior to June 30, 1992.

INQUIRY OF MR. BENGZON

In reply to the query of Mr. Bengzon, Mr. Suarez affirmed that local officials may not necessarily get a bonus of two years inasmuch as the President may decide to hold local elections in 1988, in which case, the local officials will only have a four-year term.

Mr. Davide pointed out that this is the reason why he reformulated the Section in consonance with the observation of Mr. Azcuna and deleted the five- year period.

SUGGESTION OF MR. DE CASTRO

Mr. de Castro agreed with the formulation but suggested that the Body first resolve Section 7 before considering the Davide amendment, which amendment assumes that Section 7 would be approved by the Body.

Mr. Davide did not offer any objection inasmuch as his proposal is based on the assumption that Section 7 would be approved by the Commission.

Mr. Rama asked for the Committee's reaction in view of the previous understanding that Section 7 would be taken up last.

SUSPENSION OF SESSION

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

It was 4:10 p.m.

RESUMPTION OF SESSION

At 4:12 p.m., the session was resumed.

Upon resumption of session, Mr. de Castro withdrew his suggestion provided that Mr. Davide's amendment would be subject to further amendment after he Body decides on Section 7.

VOTING ON MR. DAVIDE'S AMENDMENT

Mr. Davide then restated his proposed amendment, subject to the reservations made by Mr. de Castro, to read:

THE SENATORS, MEMBERS OF THE HOUSE OF REPRESENTATIVES, AND LOCAL OFFICIALS FIRST ELECTED UNDER THIS CONSTITUTION SHALL SERVE UNTIL NOON OF JUNE 20, 1992.

Submitted to a vote and with 22 Members voting in favor, 1 against and 1 abstention, the proposed amendment

was approved by the Body.

REMARKS OF MR. BERNAS

Mr. Bernas stated that a copy of a resolution which states: ALL THOSE WHO SERVED AS MEMBERS OF THE 1986 CONSTITUTIONAL COMMISSION SHALL NOT BE QUALIFIED TO RUN FOR ANY NATIONAL OFFICE IN THE FIRST NATIONAL ELECTION TO BE HELD UNDER THIS CONSTITUTION, had been circulated among the Members. He noted that the focus is on national offices, although it is his position that any disqualification imposed outside of a Constitution would not really be effective because the qualifications for national offices are dictated by the Constitution. He informed that the Resolution had been signed by 23 Members and that it would be difficult for any Member to vote against the Resolution because of its nature. Instead of presenting it as an amendment, Mr. Bernas manifested that the matter be left to the individual's conscience unless one of the signatories would present it.

Reacting thereto, Mr. Guingona stated that when the Resolution was presented to him, he requested to see the citation and thus was not able to sign it. He stated that he is in favor of the Resolution.

AMENDMENT OF MR. DAVIDE

Mr. Davide proposed a paragraph under the section, to wit:

OF THE SENATORS ELECTED IN THE ELECTION OF 1992, THE FIRST TWELVE OBTAINING THE HIGHEST NUMBER OF VOTES SHALL SERVE FOR SIX YEARS AND THE REMAINING TWELVE FOR THREE YEARS.

He explained that the staggering of the terms conforms with the idea of a continuing Senate.

The Committee accepted the proposal.

Submitted to a vote, and with 25 Members voting in favor and none against, the proposed amendment was approved by the Body.

On Mr. Suarez' query, Mr. Davide informed that the paragraph would follow what had been approved earlier.

MANIFESTATION OF MR. OPLE

Mr. Ople manifested for the record that "bonus" was used frequently by the proponent and the Committee presupposes some minimum standard of good performance that has been achieved, and would be inappropriate in connection with the terms of people who are yet unknown and who have not yet performed their duties.

PROPOSED AMENDMENT OF MR. OPLE

Mr. Ople, with President Muñoz Palma, Messrs. Nollado and Guingona as coauthors, proposed the following amendment, to wit:

THE FIRST LOCAL ELECTIONS AS PROVIDED FOR IN THIS ARTICLE SHALL INCLUDE THE ELECTION OF MEMBERS OF THE CITY OR MUNICIPAL COUNCILS IN THE NATIONAL CAPITAL REGION IN ACCORDANCE WITH THE ARTICLE ON LOCAL GOVERNMENTS.

THE PRESIDENT MAY, IN THE EXERCISE OF THE POWERS PROVIDED UNDER SECTION 2 OF THIS ARTICLE BY EXECUTIVE ORDER, CONSTITUTE THE METROPOLITAN AUTHORITY TO BE COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS COMPRISED BY THE NATIONAL

CAPITAL REGION.

Mr. Ople stated that the Article on Local Governments, approved on Second Reading, provides for the revival of the city and municipal councils abolished in 1975 under Presidential Decree No. 854, creating the Metropolitan Manila Commission. The intention of the amendment, he informed, is to ensure that when local elections take place, as may be determined by the President and which may be simultaneous with the first national elections, the councils would already be voted upon. The alternative, Mr. Ople noted, is to wait for a law to be enacted by Congress resulting in a delay which would be unacceptable to more than 4 million voters in Metro Manila and would prolong a setup widely condemned for having left out the fundamental right of Metro Manilans to have their own legislative assemblies.

The second paragraph, he stated, mandates the President to provide for the organization of the Metropolitan Authority which would replace the

existing Metropolitan Manila Commission. He noted that the Council, by common agreement among mayors and OICs of Metropolitan Manila, shall consist of the mayors of cities and municipalities thereof.

He stated that under the same Article, the powers of the Council would be limited to coordination of basic services common to all or several of the component units such as zoning, peace and order, traffic control, garbage collection, education and health. He noted that the President's Executive Order would not preclude the enactment of a law which would put the charter for Metro Manila on a more permanent or enduring basis.

Mr. Suarez noted that under existing laws, there are no municipal councils in the National Capital Region.

In reply, Mr. Ople informed that the municipal councils were abolished in 1975 under PD No. 854 creating the Metropolitan Manila Commission. He opined that the President, by Executive Order, should constitute the Metropolitan councils. He explained that the first paragraph of his proposal refers to the city and municipal councils abolished in 1975 while the second paragraph provides for a Metropolitan Authority to be composed of heads of all local government units in the NCR to replace the MMC. He maintained that this would be an interim authority until Congress enacts the law providing for the Metropolitan Authority on a more permanent basis.

Mr. Suarez queried whether paragraph 1 would revive the 13 municipal councils and 4 city councils which were absorbed by Metro Manila and whether in the first local elections, the election of the officers of these councils would be included.

Mr. Ople replied in the affirmative, pointing out that they are revived in Section 9 of the Article on Local Government. He stressed that under the first paragraphs the councils should be already voted upon in the first local elections to be established by the 1986 Constitution.

Mr. Suarez proposed that Mr. Ople be more specific inasmuch as the provision in the Article would be permanent in character without providing for it in the Transitory Provisions. He noted that it would refer to the first and subsequent elections as far as the councils are concerned.

Mr. Ople maintained that it is transitory in character in the sense that without a transitory provision, the election of members of the councils may not be provided in the first local elections. He noted that Metro Manila voters should be given this opportunity although he would anticipate that Congress would enact a law to provide not only for Metro Manila but for other metropolitan regions to be created under Section 9 of the Article.

The Committee accepted the proposal.

INQUIRY OF MR. MAAMBONG

On Mr. Maambong's query, Mr. Ople replied that the council would refer to traditional officials such as the City mayor, vice-mayor, members of the Sangguniang Panglungsod and members of the Sangguniang Bayan.

Mr. Ople pointed out that other members of municipal council must be specified inasmuch as election for mayor and vice-mayor is assured even without the transitory provision. The transitory provision, he insisted, would ensure that the other members shall be voted upon.

Mr. Ople also affirmed, upon inquiry, that in the second paragraph, the President's Executive Order which may be promulgated would not preclude the enactment of a congressional law which would put the Charter for Metro Manila on a more permanent basis.

INQUIRY OF MR. DE CASTRO

On the query of Mr. de Castro, Mr. Ople affirmed that there are no more city and municipal councils in the Metropolitan area because of the MMC structure.

Mr. de Castro inquired whether the non-inclusion in the election of city or municipal councils would destroy the structure of the MMC, to which Mr. Ople replied that it would be the consequence to the extent that the MMC does not allow municipal and city councils. Section 9 of the Article, he noted, provided for the revival of the city and municipal councils.

Mr. Ople affirmed that upon the ratification of the Constitution, it would in effect dismantle the MMC without prejudice to the President promulgating an Executive Order which would activate the Metropolitan Authority created in Section 9.

MR. REGALADO'S AMENDMENT TO MR. OPLE'S AMENDMENT

On the second paragraph, inasmuch as the President may resort to other vehicles of proclamation, Mr. Regalado proposed the following amendment:

UNTIL OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY, IN THE EXERCISE OF THE POWERS PROVIDED UNDER SECTION 2 OF THIS ARTICLE, CONSTITUTE A METROPOLITAN COUNCIL TO BE COMPOSED OF . . .

Mr. Ople accepted the amendment and informed Mr. Regalado that in the latest version, "Metropolitan Council" reads "Metropolitan Authority".

Mr. Ople also accepted the amendment to change the letter A to THE to make it specific.

Upon request of Mr. Maambong, Mr. Regalado restated the amendment, to wit:

UNTIL OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY, IN THE EXERCISE OF THE POWERS PROVIDED UNDER SECTION 2 OF THIS ARTICLE, CONSTITUTE A METROPOLITAN COUNCIL TO BE COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS COMPRISING THE NATIONAL CAPITAL REGION.

Mr. Ople accepted the amendment to his amendment. He called attention to the fact that "a Metropolitan Council" should read THE METROPOLITAN AUTHORITY.

OBSERVATION OF MR. JAMIR

In response to the observation of Mr. Jamir, Mr. Ople affirmed that in the absence of the legislative body, the President exercises legislative power under Section 2 of the Transitory Provisions.

MR. SUAREZ' AMENDMENT TO MR. OPLE'S AMENDMENT

Thereupon, Mr. Suarez proposed to amend the first paragraph of Mr. Ople's proposed amendment to read:

THE FIRST LOCAL ELECTION SHALL INCLUDE THE ELECTION OF MEMBERS OF THE CITY OR MUNICIPAL COUNCILS IN THE NATIONAL CAPITAL REGION. . .

Mr. Ople accepted Mr. Suarez' amendment to the amendment.

MR. DAVIDE'S FURTHER AMENDMENT TO THE AMENDMENT

Mr. Davide also amended Mr. Ople's amendment by changing "National Capital Region" to METROPOLITAN MANILA AREA, consistent with the provisions in the Articles on Local Government and the Legislative Power.

Mr. Ople accepted Mr. Davide's amendment to the amendment.

MR. SUAREZ' AMENDMENT TO THE SECOND PARAGRAPH OF MR. OPLE'S AMENDMENT

In line with Mr. Jamir's inquiries, Mr. Suarez proposed to amend the second paragraph of Mr. Ople's amendment to read:

UNLESS OTHERWISE PROVIDED BY CONGRESS, THE PRESIDENT MAY CONSTITUTE THE METROPOLITAN AUTHORITY TO BE COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS COMPRISING BY THE METROPOLITAN MANILA AREA.

Mr. Ople, likewise, accepted Mr. Suarez' amendment to the second paragraph of his amendment.

INQUIRY OF MR. DE LOS REYES

In reply to Mr. de los Reyes' query on the composition of the city or municipal councils in the Metropolitan Manila Area, Mr. Ople pointed out that the provisions of the Local Government Code would apply.

APPROVAL OF MR. OPLE'S AMENDMENT

The Sponsor accepted Mr. Ople's amendment as amended, to wit:

THE FIRST LOCAL ELECTIONS SHALL INCLUDE THE ELECTION OF MEMBERS OF THE CITY OR MUNICIPAL COUNCILS IN THE METROPOLITAN MANILA AREA.

UNTIL OTHERWISE PROVIDED BY CONGRESS THE PRESIDENT MAY CONSTITUTE THE METROPOLITAN AUTHORITY TO BE COMPOSED OF THE HEADS OF ALL LOCAL GOVERNMENT UNITS COMPRISING BY THE METROPOLITAN MANILA AREA.

Submitted to a vote, and with 35 Members voting in favor, and none against, the Body approved Mr. Ople's amendment, as amended.

Mr. Maambong stated that Mr. Ople's amendment shall be Section 15.

INQUIRY OF MR. COLAYCO

In reply to Mr. Colayco's query whether the term "Metropolitan Manila Area" is defined by law or by the provisions of the Constitution, Mr. Nollado stated that, although, there was no specific definition in the Article on Local Government, the term was defined during the deliberations on Presidential Decree No. 854.

Mr. Ople explained that during the deliberations on the Article on the Legislative it was confirmed that the Metropolitan Manila Area comprises the ten towns of Rizal province and one town of Bulacan, unless otherwise provided by future laws, and that the territorial boundaries are set forth in PD No. 854. He underscored that historical inclusion of Valenzuela and the ten towns of Rizal should remain the permanent definition of the Metropolitan Manila Area.

PROPOSED AMENDMENT OF MR. FOZ

On behalf of the Committee on Constitutional Commissions and Agencies, Mr. Foz proposed a new Section to read:

SECTION THE INCUMBENT MEMBERS OF THE CIVIL SERVICE COMMISSION, THE COMMISSION ON ELECTIONS AND THE COMMISSION ON AUDIT SHALL CONTINUE IN OFFICE FOR ONE YEAR AFTER THE RATIFICATION OF THIS CONSTITUTION UNLESS SOONER REMOVED OR APPOINTED THERE UNDER IN ACCORDANCE WITH ITS LIMITATIONS.

He explained that the incumbent chairmen and members of the three Constitutional Commissions were appointed with no fixed term not because they would serve indefinitely, which is a violation of the Constitution, but because the President is waiting for the provision of this Constitution. He pointed out that the proposal would remedy the existing situation by setting a transitional period of one year after the ratification of the new Constitution before they are removed or reappointed, but consistent with the staggered terms for the first set of appointees as provided in the Article on Constitutional Commissions.

INQUIRY OF MR. DE LOS REYES

In reply to Mr. de los Reyes' query on whether the services of Commissioners who served in the past administration would also be counted in determining the staggered years of service, Mr. Foz pointed out that, although the Body could adopt the criterion, the Article on Constitutional Commissions provides that no member shall serve an aggregate term of more than seven years.

Mr. de los Reyes cited the case of Commissioner Felipe of the Commission on Elections, who was appointed by President Marcos and has served for four years, to which Mr. Foz stated that Commissioner Felipe would be allowed to serve for only three more years after the ratification of the new Constitution.

Mr. Foz stressed that the length of service of a Commissioner would not depend on the appointing authority but on the Constitutional provisions that he is allowed to serve for an aggregate of seven years.

INQUIRY OF MR. DE CASTRO

On Mr. de Castro's query on how the proposal could be reconciled with the staggered term of office of the members of the Constitutional Commissions, Mr. Foz stated that the system has to be implemented as provided in the Article on Constitutional Commissions.

Mr. Foz added that an aggregate tenure of seven years should be made explicit, although, the system of staggered terms clearly provides that the first set of appointees would serve for seven years, the second for five years and

the last set for three years.

He also stated that any amendment to explicitate such intention would be welcome.

MR. MONSOD'S AMENDMENT TO MR. FOZ' AMENDMENT

Mr. Monsod proposed to amend Mr. Foz' formulation by putting a period (.) after the word "thereunder" and to add the following sentence: IN NO CASE WILL ANY COMMISSIONER SERVE A TERM LONGER THAN SEVEN YEARS, INCLUDING SERVICE BEFORE THE RATIFICATION OF THIS CONSTITUTION.

Mr. Foz accepted Mr. Monsod's amendment to his amendment.

SUSPENSION OF SESSION

At this juncture, on request of Mr. Monsod, the Chair suspended the session.

It was 4:56 p.m.

RESUMPTION OF SESSION

At 5:21 p.m., the session was resumed.

Thereupon, Mr. Padilla suggested that all proposals be submitted to the Committee which, in turn, should recommend the inclusion of the acceptable proposals in an addendum in successive order so that the Members would be guided accordingly. This, he opined, would result in a more orderly proceeding and expedite the approval ;of the Transitory Provisions.

Reacting thereto, Mr. Maambong explained that the Committee had presented to the Body its Committee Report consisting of 12 sections and an addendum which contained other proposed amendments that the Committee tried to religiously follow. He added, however, that as the Body proceeded with the discussions, there were other proposals which have to be taken into consideration because they are related either to the provisions in the Committee Report or to the addendum. He also stated that Mr. Suarez had advised the members of the Committee after Mr. Foz' proposal had been considered, that the Body would refer to the addendum and resequence the other proposed amendments. He then gave assurance that the Committee would try its best to adhere to Mr. Padilla's suggestion.

Mr. Rama concurred with Mr. Padilla's suggestion and suggested to the Committee to indicate, as far as practicable, what are the addenda and who are making the addenda.

PROPOSED AMENDMENT OF MR. FOZ

Thereafter, Mr. Foz restated his proposed amendment as follows: THE INCUMBENT MEMBERS OF THE CIVIL SERVICE COMMISSION, THE COMMISSION ON ELECTIONS, AND THE COMMISSION ON AUDIT SHALL CONTINUE IN OFFICE FOR ONE YEAR AFTER THE RATIFICATION OF THIS CONSTITUTION UNLESS SOONER REMOVED OR APPOINTED TO A NEW TERM THEREUNDER. IN NO CASE SHALL ANY MEMBER SERVE LONGER THAN SEVEN YEARS INCLUDING SERVICE BEFORE THE RATIFICATION OF THIS CONSTITUTION.

Mr. Suarez accepted the proposal.

Mr. Foz informed that his intention to submit the amendment was announced last July 16, 1986 when the Body discussed the Article on Constitutional Commissions.

In reply to Mrs. Rosario Braid's query whether the aggregate of seven years would include service as Commissioner and not as Chairman, Mr. Foz replied that this is a general provision so that the term as Commissioner would be included.

Thereupon, Mr. Foz' proposal was submitted to a vote, and with 31 Members voting in favor and none against, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. MAAMBONG

Thereafter, Mr. Maambong referred the Body to page 2, item 2.2 (a) of the addendum which was designated as Section 17. He informed that the addendum was distributed by the Committee as part of the Committee Report. He stated that under the present Local Government Code, the criteria for the creation of urbanized city and component city have been provided. He stated, however, that during the discussions on the Articles on the Legislative and on Local Government, apprehensions were expressed that Congress might change the criteria indicated in the Local Government Code, thus making it possible for creation of cities without the minimum requirements.

He pointed out that under the Code, three requirements have been provided, which are population, area and income. He explained that population is the only criterion provided in the Constitution to prevent future Congresses from creating component or highly urbanized cities out of towns or barrios which are too small to be considered as such.

Mr. Maambong then proposed the following provision:

EVERY HIGHLY URBANIZED CITY OR COMPONENT CITY HEREAFTER CREATED SHALL HAVE A POPULATION OF NO LESS THAN TWO HUNDRED THOUSAND AND ONE HUNDRED THOUSAND IN HABITANTS, RESPECTIVELY.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's query whether there is also a population requirement for the creation of a province under existing law, Mr. Maambong answered in the affirmative.

He stated that under Section 197 of the Local Government Code, the population requirement in the case of a province is not less than 500,000 inhabitants, with an area of 3,500 square kilometers and an annual income of at least P10 million for the last three years.

On the non inclusion of province in the proposal, Mr. Maambong stated that it should be included if an amendment is proposed to that effect.

Mr. Davide stated that he would propose an amendment if there would be no other interpellators on the subject.

ANTERIOR AMENDMENT OF MR. NOLLEDO

Mr. Nollado proposed to delete the entire provision stating that it is not a transitory provision but one which properly pertains to the Article on Local Government.

He stated that determination of whether a city is urbanized or not could not be based on population alone and that Congress would be the proper forum for such determination considering the facilities at its command.

He underscored that the proposed provision violates Section 5 of the Article on Local Government which was already approved.

Reacting thereto, Mr. Maambong stated that in his letter to Mr. Suarez, he explained that he could not file his proposed resolution pending the approval of the Articles on Local Government and the Legislative.

He pointed out that in the previous session, five hours were spent on paramilitary forces, CHDF and private armies which are not transitory in nature. He appealed to Mr. Nollado to consider the substance of his proposal in view of the laudable intention thereof.

Mr. Nollado stated that his objection is based on procedural and substantial grounds as the proposal would, in effect, tie the hands of Congress in determining what a highly urbanized city would be. He maintained that population should not be made the sole criterion.

Mr. Maambong asked that Mr. Nollado's motion to delete be considered by the Body.

Mr. Nollado stated that a city populated by only 100,000 inhabitants but which earns a big income due to the people's progressiveness would constrain the consideration of income as a factor.

Mr. Maambong suggested that should that be the logic, then an amendment including income should be proposed, in reply to which, Mr. Nollado stated that it would not be proper for him to propose an amendment because it is his conviction that the matter be left to Congress since future factors could not be foreseen in classifying whether a city is highly urbanized or not.

Mr. Maambong moved that the Body vote on Mr. Nollado's motion to delete.

Thereupon, submitted to a vote, and with 17 Members voting in favor and 11 against, the Body approved Mr. Nollado's motion to delete the entire provision.

MANIFESTATION OF MR. DAVIDE

Mr. Davide manifested that his proposed amendment is pending, in reply to which, the Chair stated that it would no longer have any standing since the entire provision has been deleted.

PROPOSED AMENDMENT OF MR. MAAMBONG

Mr. Maambong read his proposal designated as Section 18 as follows:

DEPRESSED AND FINANCIALLY DISTRESSED MUNICIPALITIES ADJACENT TO HIGHLY URBANIZED COMPONENT CITIES SHALL FORM PART OF THE LATTER.

He stated that the proposed provision would be necessary on the following grounds: 1) it would relieve the national government of the heavy burden of subsidizing the local government units that could not sustain themselves; 2) the anomalous existence of marginal municipalities draws a sharp contrast between an impoverished municipality and a city basking in affluence; and 3) it would encourage depressed and distressed municipalities to strive harder through proper management of their financial affairs which would prevent their bankruptcy because of their eventual absorption by the neighboring city.

INQUIRY OF MR. RIGOS

In reply to Mr. Rigos' query whether there is a case where a depressed and financially distressed municipality is not adjacent to any city, Mr. Maambong stated that there are several of them. He affirmed that they would not be covered by the provision.

On whether they would remain depressed and financially distressed, Mr. Maambong stated that they would have

to remain that way, because there are no adjacent cities with which they could be attached.

MOTION OF MR. NOLLEDO

Mr. Nollado moved to delete the proposed provision on the following grounds: 1) it is a companion proposal of the provision that had just been deleted 2) it conflicts with Section 4 of the Article on Local Government; and 3) it is not transitory in nature.

Mr. Maambong stated that he is offering a solution to this nagging problem and that Mr. Nollado ought to provide a cure in lieu of moving to delete the same.

Mr. Nollado stated that he fully subscribes to the wisdom of the proposed provision but the matter should be left to Congress.

Mr. Maambong moved that Mr. Nollado's motion to delete be submitted to a vote.

Thereupon, submitted to a vote, and with 17 Members voting in favor, 11 against and 1 abstention, the Body approved Mr. Nollado's motion to delete.

MANIFESTATION OF MR. RAMA

Mr. Rama stated that Mr. Maambong had another Proposed provision related to the two proposed provisions which were deleted.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 5:51 p.m.

RESUMPTION OF SESSION

At 5:52 p. m. the session was resumed.

PROPOSED AMENDMENT OF MR. MAAMBONG

Mr. Maambong read his proposed provision designated as Section 17 as follows:

SUBPROVINCES SHALL CONTINUE TO EXIST AND OPERATE IN A TRANSITORY MANNER UNDER PRESENT LAWS. THE CONVERSION OF A SUB-PROVINCE INTO A REGULAR PROVINCE OR THE REVERSION OF ITS COMPONENT MUNICIPALITIES TO THE MOTHER PROVINCE SHALL BE GOVERNED BY LAW.

He stated that he proposed the provision as no mention was made of subprovinces in the Article on Local Government.

INQUIRY OF MR. DAVIDE

In reply to Mr. Davide's query whether approval thereof would vest upon the subprovince a separate representation in the Lower House, Mr. Maambong answered in the negative.

On what is referred to as the mother province on the matter. of reversion of its component municipalities, Mr. Maambong stated that before the subprovinces were created, they were parts or municipalities of existing

provinces which were separated therefrom by virtue of the Revised Administrative Code. He stated that when the Local Government Code was passed, the subprovinces did not possess the necessary qualifications of a province but they remained as such because they were created by law.

He affirmed that "present laws" would refer to the Local Government Code, Section 198 of which provides that subprovinces are given a period of existence of ten years. He also affirmed that reversion is governed by the Code.

On whether repeal or modification of the provision of the Local Government Code relating to the existence, operation and reversion of subprovinces would no longer be allowed, Mr. Maambong answered in the negative, stating that the provision specifically states "shall be governed by law." He opined that in accordance with the provisions of the Article on Local Government, a Local Government Code shall be enacted which might, in some ways, be consistent with the present Code.

On whether a new Local Government Code would be allowed to repeal or modify the provisions on the existence and operation of subprovinces or the conversion of their component units to the mother provinces, Mr. Maambong stressed that that is not the intention of the proposed provision.

Replying thereto, Mr. Davide pointed out that should that not be the intention of the proposed provision, then there would be no need for the provision since the existence, operation and reversion thereof are governed by existing laws.

Adverting to the interpellation during the discussion on the Article on Local Government, Mr. Maambong stated that Mr. Nollado disclosed that the matter on subprovinces was not mentioned in the Article and that there is a need to include it in the Transitory Provisions.

On whether Aurora is a province, Mr. Maambong replied in the affirmative.

MODIFICATION OF MR. AZCUNA

Mr. Azcuna proposed a modification of the first sentence, to read:

SUBPROVINCES EXISTING UNDER PRESENT LAWS SHALL CONTINUE.

Mr. Maambong accepted the proposal.

Mr. Guingona proposed to delete the second sentence to attain the objective or purpose of Mr. Maambong, adverting to the interpellation of Mr. Davide, in reply to which, Mr. Maambong stated that its decision would not convert the subprovinces, retaining them as they are. He pointed out that under existing laws, subprovinces are given ten years within which they could become provinces by complying with the population and the income requirements, otherwise, they would revert to their mother provinces.

Mr. Guingona observed that the phrase "continue in existence as may be provided by law" means that the continuation of their existence should depend on the provision of the law and that if the law provides for conversion or reversion, it would be effective.

Mr. Maambong argued, however, that the sense of the first sentence would be that they would continue forever, thus, negating their conversion.

MODIFIED AMENDMENT OF MR. NOLLEDO

Mr. Nollado proposed to modify the proposal as follows: "Subprovinces shall continue to exist and operate UNTIL CONVERTED into regular provinces or REVERTED to the mother provinces AS' PROVIDED BY LAW."

Mr. Maambong accepted the modification.

PROPOSED AMENDMENT OF MR. SARMIENTO

Mr. Sarmiento stated that Aurora is already a province and that there are only two subprovinces at present — Guimaras and Biliran Island.

He proposed to modify the amendment to read: THE SUBPROVINCES OF GUIMARAS AND BILIRAN SHALL CONTINUE TO EXIST . . .

Mr. Maambong did not accept the proposal stating that there might be other subprovinces.

MR. DAVIDE'S AMENDMENT TO THE AMENDMENT

Mr. Davide proposed to amend Mr. Nollado's formulation by substituting the last portion thereof to ITS COMPONENT MUNICIPALITIES REVERTED TO THE MOTHER PROVINCE, which Mr. Nollado accepted.

INQUIRY OF MR. AZCUNA

In reply to Mr. Azcuna's query whether in the case of a reversion there would be no need for a plebiscite, Mr. Maambong replied in the affirmative.

Mr. Azcuna stated, however, that under the concept of local autonomy, there would be no need for a plebiscite as far as subprovinces are concerned, in reply to which, Mr. Maambong stated that no such provision could be found in the Local Government Code.

RESTATEMENT OF THE PROPOSED SECTION AS MODIFIED

Upon the direction of the Chair, Mr. de los Reyes restated the modified proposed provision as follows:

SUBPROVINCES SHALL CONTINUE TO EXIST AND OPERATE UNTIL CONVERTED INTO A REGULAR PROVINCE OR ITS COMPONENT MUNICIPALITIES REVERTED TO THE MOTHER PROVINCE AS PROVIDED BY LAW.

Thereupon, submitted to a vote, and with 31 Members voting in favor and none against, the same was approved by the Body.

PROPOSED AMENDMENT OF MR. MONSOD

Mr. Monsod stated that he would like to propose a provision regarding the divestment of advertising entities.

The proposed amendment reads as follows:

ADVERTING ENTITIES AFFECTED BY SECTION ____ ARTICLE ____ OF THIS CONSTITUTION SHALL BE GIVEN FIVE YEARS FROM RATIFICATION TO COMPLY ON A GRADUATED BASIS WITH A MINIMUM FILIPINO OWNERSHIP REQUIREMENT THEREIN.

Mr. Suarez pointed out that there is still paragraph 3 of the Addendum which was prepared in accordance with the

arrangement agreed upon. He suggested that the matter be considered first. He stated that the Committee had collated all the loose proposals and shall submit a consolidation, including the proposal of Mr. Monsod in the next day's session.

He then suggested that the Body go back to the Addendum and finish it.

Mr. Maambong stated that he was not the proponent of the amendment. Mr. Suarez informed that it was Mr. Regalado who made an express reservation and requested deferment of consideration of the proposed amendment. Mr. Maambong remarked that the proposal only says that a transitory provision should be made that shall allow the State to institute reversion proceedings with respect to the excess area pending the application of the agrarian reform program on the areas concerned.

ADJOURNMENT OF SESSION

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

It was 6:08 p.m.

I hereby certify to the correctness of the foregoing.

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

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on October 4, 1986

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