

## JOURNAL NO. 58

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Saturday, August 16, 1986

### CALL TO ORDER

At 9:39 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. Roberto R. Concepcion, to wit:

"Dear Lord,

We thank Thee for Thy sustained assistance

in our earnest endeavors to draft a new Constitution

for the Republic of the Philippines.

Impart to us, our Father in Heaven,

the grace to vividly recall

the fateful events of last February,

when the armed and armoured forces

of the tyrant

confronted thousands of our civilian

population;

who, armed with no more than their faith

in Thy wisdom and their just cause,

held their ground, seemingly doomed to

complete annihilation;

When both groups were surprised to realize

that none of them were enemies,

and all of them were and are Filipino brothers;

and

When exhilarated by this inspiring development  
they pledged to join hands in the quest for  
truth and justice,  
in the pursuit of freedom and equality,  
in the promotion of peace and progress for all.  
Help us, our loving Father,  
to draw strength from these meaningful tokens  
of Thy love,  
to avail of the light of Thy wisdom  
to find the right path  
so that the new Constitution  
may ensure the stability of our beloved  
Republic,  
enrich human dignity in our land, and  
promote the well-being and prosperity of  
the Filipino people.  
Amen."

### **ROLL CALL**

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

Alonto, A. D.  
Nolledo, J. N  
Azcuna, A. S.  
Ople, B. F.  
Bacani, T. C.  
Padilla, A. B.  
Bennagen, P. L.  
Muñoz Palma, C.  
Calderon, J. D.  
Rama, N. G.  
De Castro, C. M.

De los Reyes, R. F.

Colayco, J. C.

Rigos, C. A.

Concepcion, R. R.

Rodrigo, F. A.

Davide, H. G.

Rosales, D. R.

Foz, V. B.

Sarmiento, R. V.

Gascon, J. L. M. C.

Sumulong, L. M.

Jamir, A. M. K.

Tadeo, J. S. L.

Laurel, J. B.

Treñas, E. B.

Monsod, C. S.

Villegas, B. M.

With 28 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R.

Maambong, R. E.

Aquino, F. S.

Natividad, T. C.

Bernas, J. G.

Romulo, R. J.

Rosario Braid, F.

Suarez, J. E.

Garcia, E. G.

Uka, L. L.

Lerum, E. R.

Villacorta, W. V.

P.M.

Bengzon, J. F. S.

The following Members were absent:

Brocka, L. O.

Tan, C.

Nieva, M. T. F.

Tingson, G. J.

Quesada, M. L. M.

Messrs. Guingona and Regalado were sick.

### **READING AND APPROVAL OF THE JOURNAL**

On motion of Mr. Calderon, 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. Calderon, 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. 564 — Constitutional Commission of 1986**

Letter from former Justice Jose B. L. Reyes, Acting Chairman, Presidential Committee on Human Rights, Rizal Bldg., Ground Floor, University of Life Complex, Pasig, Metro Manila, calling attention to grave violations of tribal property rights of ethnic minorities in the Mountain Province and elsewhere, saying that such violations are made possible by the Regalian Doctrine which is enshrined in the 1935 and 1973 Constitutions, recommending thereof proper modification to guarantee the protection of the rights of these ethnic minorities

#### **TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES**

#### **Communication No. 565 — Constitutional Commission of 1986**

Communication signed by Mr. Democrito T. Mendoza of the Trade Union Congress of the Philippines and eighty-nine other signatories, seeking inclusion in the Constitution of the proposed provision on industrialization, economic protectionism and Filipinization of the economy

#### **TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY**

#### **Communication No. 566 — Constitutional Commission of 1986**

Letter from Ms. Agnes Camacho and eight others of the University of the Philippines, Diliman, Quezon City, suggesting that local elective officials should serve a term of six years and that local elective officials should not be allowed to run for reelection, be it for the same position or another, except after the lapse of six years

## TO THE COMMITTEE ON LOCAL GOVERNMENTS

## Communication No. 567 — Constitutional Commission of 1986

Communication with three hundred thirty-four signatories with their respective addresses, all seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception

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

## UNFINISHED BUSINESS: COMMITTEE REPORT NO. 25 ON PROPOSED RESOLUTION NO. 470 ON THE ARTICLE ON LOCAL GOVERNMENT

Thereafter, on motion of Mr. Rama, there being no objection, the Body resumed consideration of Resolution No. 470 (Committee Report Nos. 21 and 25), entitled:

Resolution proposing to incorporate in the new Constitution an Article on Local Government.

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

Mr. Rama stated that the Body would be using the draft Article as amended on August 13, 1986.

Thereupon, the Chair recognized Mr. Nollado, as Chairman of the Committee on Local Governments, and the members of the Committee for the amendments.

**REMARKS OF MR. NOLLEDO**

Mr. Nollado stated that Resolution No. 470 would be the revised report of the Committee on Local Governments which contains provisions pursuant to the agreement reached in the caucus of August 12, 1986 which, among others, is the creation of two autonomous regions. He also stated that the revised draft consolidated the Article on Local Government, containing two parts, namely, the general provisions on local governments and the provisions on the autonomous regions.

Specifically, he explained that Section 1 separated the provinces, cities, municipalities and barrios from the autonomous regions, the creation of which would be subject to approval in a plebiscite by a majority of the voters in the regions concerned.

He also explained that Section 2 provides for the enactment of the Local Government Code, while Section 3 provides that the highly urbanized cities shall be independent of the province but shall not deprive the residents thereof of the right to vote for elective provincial officials.

He stated that Sections 4, 5, 6, 8, 9 and 11 were just reproductions of the original provisions in Committee Report No. 21.

On Section 7, he stated that regional development councils would be created to be composed of local government officials whose powers would be prescribed by law, in order to accelerate the economic and social growth of local government units, which provision was proposed by Mr. Monsod.

He also explained that the proposal of Messrs. Ople, Maambong, Natividad and de los Reyes was made as a separate Section 10 which provides for the share of local governments in the proceeds of exploitation and development of the national wealth within their respective areas.

On the subheading "Autonomous Regions" of the Article, Mr. Nollado underscored that Section 1 is limited to the

creation of the autonomous regions of Cordillera and Muslim Mindanao, and that the creation of other autonomous regions would require a Constitutional amendment.

He stated that Section 2 is a reproduction of the provision in Committee Report No. 21, with the second sentence thereof providing that the Organic Act may provide for the creation of courts with jurisdiction over the regions concerned; and the last sentence reiterating that the creation of the autonomous regions would require the approval of the majority of all the voters of the constituent units, provided that when the majority of the voters of a province vote against local autonomy, said province would not be included in the territorial jurisdiction of the autonomous region.

On Section 3, he stressed that the President of the Philippines would retain the right to exercise general supervision over autonomous regions.

He explained that Section 4 provides for legislative authority of the autonomous regions but the provision on the creation of special forces was deleted because of the objections of some Members of the Commission. However, he pointed out that the Committee adopted the proposal of Messrs. de Castro, Natividad and de los Reyes to be the new Section 5 which provides that the maintenance of peace and order in the autonomous region would be the responsibility of the local police agencies under the supervision of the local executives concerned, but the defense of the region against insurgency or invasion would be the responsibility of the national government.

He also stated that Section 6 enumerates the powers of the autonomous regions and provides that all other powers not enumerated therein or by law shall be vested in the national government.

Finally, Mr. Nollado pointed out that Section 7 would implement the provision of Section 1 by mandating Congress to enact within one year from the election of its Members the organic acts for the autonomous regions of the Cordilleras and Muslim Mindanao.

### **SUSPENSION OF SESSION**

At this juncture, on motion of Mr. Rama, the Chair suspended the session to allow the Members to confer with the Committee on their amendments.

It was 10:01 a.m.

### **RESUMPTION OF SESSION**

At 10:16 a.m., the session was resumed.

Upon resumption, Mr. Rama informed that the Committee was ready to accept the amendments discussed during the caucus.

### **PROPOSED AMENDMENT OF MR. JAMIR**

Mr. Jamir proposed to delete the second sentence of Section 1 which reads "There shall be autonomous regions as hereinafter provided", on the ground that 1) it would be superfluous inasmuch as the autonomous regions are already named and provided for under the heading "Autonomous Regions"; and 2) it might be interpreted as authorizing the creation of additional autonomous regions patterned after the autonomous regions of the Cordilleras and Muslim Mindanao.

Mr. Nollado, in rejecting the amendment, stated that the sentence would merely give the entire image of the structure of local governments in the country and manifest the intent to have only two autonomous regions,

namely, Muslim Mindanao and the Cordilleras which, however, were not specified in the sentence because of the conditions to be complied with for the creation of autonomous regions.

Thereupon, Mr. Jamir proposed to add the phrase "autonomous regions" after the word "barrios" and to delete the second sentence of Section 1.

Mr. Nollado pointed out that the first sentence of Section 1 speaks of existing regularly constituted political units and, therefore, does not include autonomous regions which are to be created by Congress subject to certain conditions.

### **INQUIRY OF MR. BERNAS**

At this juncture, Mr. Bernas inquired whether it is the sense of the Committee that besides recognizing the Cordilleras and Muslim Mindanao as autonomous regions, it would also prohibit Congress from creating other autonomous regions, to which Mr. Nollado replied in the affirmative. He stated that the Committee adopted Mr. Rodrigo's observation in the caucus that other regions — other than Muslim Mindanao and Cordilleras—should seek autonomous status through constitutional amendment.

### **VOTING ON MR. JAMIR'S PROPOSED AMENDMENT**

Submitted to a vote, and with 8 Members voting in favor and 15 against, the proposed amendment of Mr. Jamir was lost.

### **AMENDMENT OF MR. DAVIDE**

Mr. Davide proposed to amend the title "Local Government" to "Local Governments AND AUTONOMOUS REGIONS", which amendment was accepted by the Committee.

Mr. Padilla observed that changing the title might give the impression that autonomous regions are not local governments, to which Mr. Davide replied that the title "Local Governments AND AUTONOMOUS REGIONS" would embody the contents of the succeeding sections. He noted that Section 1 defines the local governments under the general provisions while the subheading "Autonomous Regions" would recognize the two autonomous regions, therefore, the title as modified would not be misleading.

Submitted a vote, and with 12 Members voting in favor, 9 against and 3 abstentions, the amendment of Mr. Davide was approved by the Body.

### **AMENDMENT OF MR. PADILLA**

As proposed by Mr. Padilla and accepted by the Sponsor, the Body approved the amendment to adopt for the first sentence of Section 1 the original wordings found in Section 1, Article II of the 1973 Constitution, to wit:

THE TERRITORIAL AND POLITICAL SUBDIVISIONS OF THE REPUBLIC OF THE PHILIPPINES ARE THE PROVINCES, CITIES, MUNICIPALITIES AND BARRIOS

### **PROPOSED AMENDMENT OF MR. PADILLA**

Mr. Padilla proposed to amend the second sentence of Section 1, to read: THE CONGRESS SHALL AUTHORIZE TWO AUTONOMOUS REGIONS AS HEREINAFTER PROVIDED.

Mr. Nollado did not accept the amendment on the ground that there could be two or more autonomous regions in Muslim Mindanao as Congress may provide. He mentioned that Mr. de Castro would in fact raise the question as

to whether Muslim Mindanao would constitute only one autonomous region. He explained that although the Committee mentioned Muslim Mindanao as only one autonomous region, Congress may decide to create two or more such regions out of Mindanao.

Mr. Padilla underscored that his amendment would make it clear that "autonomous regions" would be limited to Muslim Mindanao and the Cordilleras and would not be extended to any other region.

### **INQUIRY OF MR. OPLE**

Mr. Ople inquired whether it is the intent of the Committee to delegate the creation of the two autonomous regions to Congress rather than do it through a Constitutional provision under the heading "Local Governments and Autonomous Regions" although Congress would be mandated to pass the organic acts or the enabling laws in order to implement this provision.

In reply thereto, Mr. Nollado stated that the intent is to mandate Congress to create the autonomous regions in Muslim Mindanao and the Cordilleras. He added that the Constitution itself would provide that there shall be autonomous regions in Muslim Mindanao and the Cordilleras, thus, it would in effect be a Constitutional creation with Congress being authorized to enact the organic acts.

### **REMARKS OF MR. DE CASTRO**

Mr. de Castro informed that although the Body agreed on an autonomy for Muslim Mindanao, there are two groups therein — the Tausugs of Sulu and the Maranaws of Lanao del Norte, Lanao del Sur and surrounding areas — who differ in dialects and customs and who would not want to be dominated by each other. In view thereof, he noted that it would be difficult to form only one autonomous region and that consequently he had conferred with Mr. Alonto on the possibility of two autonomous regions for Muslim Mindanao. With respect to the Cordilleras, he observed that there also exists dissension within the ranks of the Cordillera people, with the people of Kalinga-Apayao against autonomy.

Mr. Alonto, in reply thereto, stated that in the case of Muslim Mindanao, the reason for specifying "Muslim Mindanao" in the Constitution is that the different ethnic groups in Mindanao are agreed on the discipline of Islam, hence they had been grouped together as Muslim Mindanao. He noted that it would be up to Congress to group them into different territorial autonomous units based on such aspects as geography and local customs. He stated that in accordance with the spirit of the Constitutional provision, the same would also apply to the Cordilleras.

Mr. de Castro stated that he brought up the matter because the proposed amendment of Mr. Padilla would limit Congress to creating only one autonomous region for Muslim Mindanao and another one for the Cordilleras despite the presence of different factions in each region.

At this juncture, the Chair invited the attention of Mr. de Castro to the revised amendment of Mr. Padilla which would precisely take care of the situation.

Thereafter, on the query whether the Committee had already settled the quarrel between the two factions in the Cordillera region, Mr. Bennagen stressed that in the case of Muslim Mindanao and Cordilleras, there are a number of ethnic groups within each region but they are unified by common bonds. In the case of the Muslims, he stated that there are at least seven ethnic groups which are unified by a long history of common struggle and by the Islam faith; and with respect to the Cordilleras, by their common ecology and culture and their common response to government neglect. On the impression that there are two major factions in the Cordilleras, Mr. Bennagen adverted to a letter of disclaimer which he read in the previous session showing that the said quarrel had already

been settled. He opined that any quarrel or differences within the region should be settled by the people and not by the Commission.

Mr. Nollado stated that the Committee would be receptive to any amendments to Section 1 on the autonomous regions which Mr. de Castro would propose at the proper time.

### **REMARKS OF MR. OPLE**

Mr. Ople informed the Body that the original proponents of the resolution contemplated the creation of one autonomous region for Muslim Mindanao because many Muslims leaders viewed the creation of two autonomous regions as an attempt by the past regime to circumvent the obligation of the Philippine Government under the Tripoli Agreement. He stated that if the Body wants to write a Constitution of peace, it should recognize the major demand of most of the Muslim groups in Mindanao to form a single ,autonomous region consisting of several provinces and cities. He warned that the Body would face a serious accusation with proposals to create two autonomous regions. He opined that for purposes of giving the Muslims in Mindanao their autonomy for which they have waged armed and peaceful struggles, the Body should not fall short of their minimum expectation for a single autonomous region.

### **REMARKS OF MR. BENNAGEN**

Mr. Bennagen, in supporting Mr. Ople's stand, adverted to certain ongoing systematic consultations among the various ethnic groups unified by Islam. He opined that it would be unfair to make implications that there are overriding divisions among them despite the fact that they are a united community notwithstanding ethnic differences.

### **MODIFIED AMENDMENT OF MR. PADILLA**

As proposed by Mr. Padilla and modified by the Committee, the Body approved the rewording of the last sentence of Section 1 to read as follows: THERE SHALL BE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERA AS HEREINAFTER PROVIDED.

### **PROPOSED AMENDMENT OF MR. OPLE**

Mr. Ople proposed the inclusion of a new paragraph to Section 1 that would read as follows:

IN ADDITION TO THE ABOVE ENUMERATION, CONGRESS MAY, BY LAW, RECOGNIZE A SPECIAL POLITICAL SUBDIVISION BASED ON METROPOLITAN AREAS, INCLUDING THE NATIONAL CAPITAL REGION, SUBJECT TO A PLEBISCITE, AND PROVIDED THAT THE COMPONENT CITIES AND MUNICIPALITIES RETAIN THEIR BASIC AUTONOMY AND SHALL BE ENTITLED TO THEIR OWN LEGISLATIVE ASSEMBLIES; AND PROVIDED FURTHER THAT ANY METROPOLITAN AUTHORITY THAT MAY BE CREATED SHALL LIMIT ITS JURISDICTION TO BASIC SERVICES REQUIRING AREA-WIDE COORDINATION.

Explaining his proposed amendment, Mr. Ople stated that the enumeration of political subdivisions in Section 1 omitted any mention of metropolitan regions and by implication obliterated Metro Manila and potential equivalents in the Visayas and Mindanao as a distinct political subdivision. He explained that his proposal would rescue the existing National Capital Region from the possibility of disappearing in a constitutional limbo or from becoming a constitutional orphan. He assured that his proposal would not in any manner suggest the preservation of the Metro Manila Commission because it would leave to Congress the option of providing for a supramunicipal council or authority, whose jurisdiction would be limited to basic services requiring area-wide coordination and

supervision including drainage and flood control, zoning and land use, traffic and transport management, garbage collection and dump sites, and possibly, health and peace and order as Congress may determine.

Mr. Ople stated that although there are existing differences among leaders of Metro Manila with respect to the form of a supramunicipal authority, there is perfect unanimity in the right of Metro Manila to exist as a political subdivision which should not be denied by a Constitutional omission. He pointed out that there is no major metropolitan area in the world, including the so-called conurbations, without any system of governance. He stressed that the model of political subdivision envisaged in the proposal could apply not only to the National Capital Region but also to potential conurbations in the South, such as Cebu and Davao, provided that they would meet the standards to be established by Congress and subject to the preference of the people themselves expressed in a plebiscite.

### **INQUIRY OF MR. NOLLEDO**

In reply to the query of Mr. Nollado, Mr. Ople affirmed that his proposed amendment intends a return of the mayor-council setup of government to component cities and municipalities within the National Capital Region. He explained that the Metropolitan Authority would have authority to promulgate rules on basic services but only with respect to such spheres of competence that Congress would grant to it. He stated that said Authority would be a council composed of the mayors themselves who would make the rules with respect to the common services.

On whether the rules to be promulgated by the Metropolitan Authority should not infringe upon the provisions of the ordinances of the component cities and municipalities, Mr. Ople replied that they should not because basic autonomy is vested in the municipal and city councils. He stated that since the mayors would constitute the rule-making council of the Metropolitan Authority, they could see to it that there would be no inconsistency between the rules for the metropolis and the ordinances of the city and municipal councils.

Finally, Mr. Ople affirmed that the Supreme but had upheld the; constitutionality of Presidential Decree No. 824 which created the Metro Manila Commission and would continue to be in force until repealed or amended by Congress. He stated that under his proposal, the Metro Manila Commission would in most ways be set aside in favor of a new authority that Congress would determine.

### **INQUIRY OF MR. BENNAGEN**

On whether the establishment of schools would fall within the ambit of "basic services", Mr. Ople stated that the list of basic services is not self-limiting but he pointed out that consistent with the basic autonomy vested in the cities and municipalities, the sphere of jurisdiction of the Metropolitan Authority that would supplant the Metro Manila Commission should be confined to several areas of basic services, leaving the matter of establishing schools to Congress.

### **INQUIRY OF MR. BERNAS**

In reply to Mr. Bernas' inquiry as to how the Metropolitan Authority would be categorized, considering that the proposed amendment uses the term "political subdivision" and at the same time limits its jurisdiction to basic services, Mr. Ople explained that this proposal contemplates a body below the level of a municipal corporation although Congress would have the flexibility to determine what kind of supramunicipal authority would be established. He stated, however, that his proposal is biased towards limiting the powers of the Metropolitan Authority to the management of some basic services, unlike the present Metro Manila Commission in which legislative and executive powers are concentrated.

Finally, Mr. Ople affirmed that the Metropolitan Authority, being a *sui generis*, his proposal contemplates something between what Sections 1 and 6 contemplate and it would challenge Congress to come out with the most appropriate form of authority, after going over the models in other jurisdictions.

### REMARKS OF MR. VILLEGAS

Mr. Villegas endorsed Mr. Ople's proposed amendments stating that it is imperative that there should be some way of attaining economies of scale in the basic services for the benefit of the residents of the metropolis. He stated that the concept behind the proposal has been practised in other parts of the world, not only in metropolis but also in megapolis like Tokyo, Mexico and Seoul. He also mentioned a study made on the problems of Metro Cebu.

### INQUIRY OF MS. AQUINO

On Ms. Aquino's query whether the proposed amendment contemplates to empower the special political subdivisions in terms of police power and power of taxation, Mr. Ople stated that while police power is vested in the Metropolitan Police Command his proposal would not bar a future law from including peace and order as well as power of taxation within its coverage. He further stated that his proposal would incline towards vesting as much powers as possible in the local units rather than in the supramunicipal authority.

On the observation that the proposed amendment would aptly belong to Section 6 of the proposed draft of the Committee, Mr. Ople admitted that he took into consideration Section 6 as an alternative which is a reproduction of a provision in the 1973 Constitution but he was advised that Section 6 had not proven to be highly successful in the past, the reason being that this implies a voluntary association of several local governments units.

Ms. Aquino stated that the problem seems to be the anticipation of the powers that might be vested in this political subdivision which, she opined, is essentially in the nature of a geopolitical subdivision that would necessarily cover the requirements of contiguity, adjacentness and accessibility to each other. She pointed out that once grouped together as a geopolitical subdivision, it would carry the personality of a municipal corporation with plenary powers, police power and power of taxation. If it is the intent to delimit it as provided in the last proviso of this proposed Article, she stated that there is some confusion in terms of putting together the concept of a geopolitical subdivision with the limited powers proposed in the amendment.

In reply, Mr. Ople stated that the situation of Metro Manila, it being a *sui generis*, makes imperative the grant to Congress of flexibility to provide the structure and powers of this authority consistent with the broad outlines of the proposed amendment. He opined that Congress should find a middle ground between a full-fledged municipal corporation with all its inherent powers and the provisions of Section 6. He stressed that his proposal is reminiscent of a loose confederacy where the municipalities and the cities agree to retain their autonomous powers as much as possible but recognize the fact that there are common basic services which are better undertaken on a regionwide basis.

Ms. Aquino suggested that Mr. Ople should be more explicit in clarifying the supramunicipal authority which, to her, would not belong to Section 1. Should the Body adopt the proposal to the level of Section 1, she stated that in the absence of jurisprudence on the matter, it could be unsettling not only to jurisprudence but also to the laws on municipal corporations.

Mr. Ople stressed that what is central in his proposed amendment is the authority given to Congress to recognize special political subdivisions based on metropolitan areas in addition to those enumerated in the first sentence of Section 1 in order that they are not consigned to a constitutional limbo. He stated that by an act of Congress, a

metropolitan area could be recognized as a special political subdivision that would address the problems of economies of scale for the entire region and at the same time, the basic local autonomy in the municipalities and cities is retained.

### **SUSPENSION OF SESSION**

At this juncture, the Chair suspended the session.

It was 11:07 a.m.

### **RESUMPTION OF SESSION**

At 11:25 a.m., the session was resumed.

Upon resumption of session, Mr. Ople manifested agreement to the rewording of his proposed amendment concerning metropolitan areas. He also manifested that the coauthors of the provision were Messrs. Nollado, Azcuna, Bennagen, Alonto, Calderon, Monsod, Davide, Bernas, Ms. Aquino and Mrs. Muñoz Palma. He added that the provision would be transferred to Section 6.

Thereupon, Mr. Nollado read the provision as follows:

THE CONGRESS MAY, BY LAW, CREATE A SPECIAL METROPOLITAN POLITICAL SUBDIVISION INCLUDING THE NATIONAL CAPITAL REGION, SUBJECT TO A PLEBISCITE AS SET FORTH IN SECTION 11 HEREOF. THE COMPONENT CITIES AND MUNICIPALITIES SHALL RETAIN THEIR BASIC AUTONOMY. IT SHALL BE ENTITLED TO THEIR OWN LEGISLATIVE ASSEMBLIES. THE METROPOLITAN AUTHORITY THAT MAY THEREBY BE CREATED SHALL LIMIT ITS JURISDICTION TO BASIC SERVICES REQUIRING COORDINATION.

### **INQUIRY OF MR. DAVIDE**

On Mr. Davide's query as to the effect of the provision on the allocation of seats for the Lower House of Congress as defined and prescribed in Section 5 of the proposed Article on the Legislative, and whether the areas composing the Metropolitan Authority would be entitled to separate representation, Mr. Ople opined that the metropolitan areas would be entitled to separate representation. He pointed out that the Committee on the Legislative allowed the return of ten towns which are part of Metropolitan Manila back to their mother province of Rizal as well as one town back to its mother province of Bulacan. He explained, however, that the intent of the provision is to preserve the territorial integrity of the National Capital Region or Metropolitan Manila so that the Committee on the Legislative and the Commission on Elections (COMELEC) should take the matter into account for the purpose of redistricting.

On whether the approval of the amendment would necessarily result in the amendment of Section 5 of the Article on the Legislative relative to the apportionment of seats, Mr. Ople answered in the affirmative and added that the Committee on the Legislative would have to proceed with the redistricting on the basis of the existence of an entity known as the National Capital Region.

Mr. Davide observed that if the amendment would be approved, the Committee on the Legislative would be compelled to request for the reopening of Section 5 of the proposed Article on the Legislative.

### INQUIRY OF MR. SUMULONG

On Mr. Sumulong's query as to the effect of the amendment on the apportionment scheme being discussed by the Committee on the Legislative, with the assistance of the COMELEC, which gave the province of Rizal ten districts including the municipalities which were integrated into Metro Manila, Mr. Ople opined that the redistricting of the ten towns in Metro Manila back into the province of Rizal would no longer be necessary.

As to the effect of the amendment on the redistricting of the province of Bulacan, Mr. Ople stated that he and Mr. Natividad, and possibly Mr. Rodrigo, would not mind if Valenzuela would be redistricted within the context and framework of the existing entity known as the National Capital Region.

On Mr. Sumulong's contention that Valenzuela could no longer be considered part of Metro Manila by virtue of Section 1 of the proposed Article on Local Government, Mr. Ople replied that the proposed provision precisely seeks to rescue Metro Manila from a constitutional limbo by providing for its existence as a special geopolitical subdivision but it would not be placed in Section 1 but in Section 6 which deals with the power of local government units to group themselves for their common good. He pointed out that the law creating the Metro Manila Commission, Presidential Decree No. 824, having been sustained by the Supreme Court as constitutional, the Metro Manila government would continue to exist under a valid law until this is amended or repealed.

On whether Metro Manila, as created by PD No. 824, no longer exists, Mr. Ople opined that it continues to exist until the law which created it is repealed, amended or superseded. He added that this is also the opinion of the Chairman of the Committee on Local Governments.

Thereupon, Mr. Nollado explained that the Committee on Transitory Provisions had adopted a provision which stipulates that all existing Presidential Decrees shall remain valid until set aside by Congress, in view of which, PD No. 824 shall continue to exist until repealed or amended by Congress.

Mr. Sumulong, however, stated that PD No. 824 which provided for a commission form of government for Metro Manila was never implemented because there was only one woman who governed Metro Manila, in the same manner that the position of Mr. Lina as acting Governor of Metro Manila would have no legal basis because said decree provides for a commission, not a governor.

In this connection, Mr. Nollado opined that under the new Civil Code, the disuse or nonapplication of any law does not repeal the same. He also stated that Mr. Lina is just the officer-in-charge, and for legal purposes, he is the Commission until the President shall have appointed the members thereof.

The Chair, however, suggested that the Commission discuss the authority of Mr. Lina during the consideration of the Article on Transitory Provisions, to which Mr. Ople agreed, stating that there was nothing in the Article on Local Government that would prevent its consideration in the Article on Transitory Provisions.

Thereupon, the Sponsor accepted Mr. Ople's proposed amendment.

### INQUIRY OF MR. BERNAS

In reply to Mr. Bernas' query on whether the Metro Manila Commission would have legislative authority, Mr. Ople pointed out that although it is not explicit in the provision, it is the intention of the proponents to mandate Congress to create a quasi-legislative assembly composed of the mayors of the component cities and municipalities, which would, in turn, enact rules that would be consistent with the ordinances that the municipal councils may enact.

Mr. Ople affirmed that it would also be given the right to exercise police power, the power of eminent domain,

and the power to tax for purposes of supporting the basic services.

### **RESTATEMENT OF MR. OPLE'S AMENDMENT**

Thereupon, Mr. Nollado restated Mr. Ople's amendment as accepted by the Committee, to wit:

SECTION 6. THE CONGRESS MAY, BY LAW, CREATE A SPECIAL METROPOLITAN POLITICAL SUBDIVISION INCLUDING THE NATIONAL CAPITAL REGION SUBJECT TO A PLEBISCITE AS SET FORTH IN SECTION 11 HEREOF. THE COMPONENT CITIES AND MUNICIPALITIES SHALL RETAIN THEIR BASIC AUTONOMY AND SHALL BE ENTITLED TO THEIR OWN LEGISLATIVE ASSEMBLIES. THE METROPOLITAN AUTHORITY THAT MAY THEREBY BE CREATED SHALL LIMIT ITS JURISDICTION TO BASIC SERVICES REQUIRING COORDINATION.

Mr. Sarmiento moved that voting on the amendment be deferred until clean copies thereof shall have been furnished the Members, which Mr. Rodrigo seconded.

Thereupon, Mr. Rodrigo proposed to add "s" to "subdivision", and to delete the article "a" before the word "special"; and on the sixth line, between "own" and "legislative", to insert the words LOCAL EXECUTIVES AND, which amendments were accepted by Mr. Ople.

Mr. Ople stated that the proposed amendment of Mrs. Muñoz Palma should also be included, that instead of the phrase "including the National Capital Region" it should read SUCH AS THE NATIONAL CAPITAL REGION.

Mr. Davide proposed that the phrase "such as the National Capital Region" be deleted as superfluous.

Mr. Ople accepted the proposed amendment on the understanding that the National Capital Region would be recognized in the Transitory Provisions.

The Sponsor, likewise, accepted the amendment to the amendment.

### **INQUIRY OF MR. SUAREZ**

In reply to Mr. Suarez' query on whether the decision on the municipalities of Rizal and Bulacan that are affected would be sought in the plebiscite, Mr. Ople pointed out that they have been part of Metro Manila for the last eleven years and they have been accustomed to it, so that the plebiscite would be confined to what is presently known as the National Capital Region.

### **INQUIRY OF MR. FOZ**

In reply to Mr. Foz' query on the relation of component cities and municipalities of the National Capital Region to the Metropolitan Authority, Mr. Ople stated that the municipalities and cities would retain the basic autonomy that was taken away from them by the Metro Manila Commission, so that they would now become agents of the Metropolitan Authority. He stressed that the Metropolitan Authority emanates from the collectivity of said municipalities and cities.

On the observation that the Metropolitan Authority would already be exercising almost all the functions of the cities and municipalities, Mr. Ople stated that the basic services would be clearly segregated by the law that Congress would enact so that there would be supramunicipal coordination, while avoiding conflicts between municipalities and cities.

He reiterated that the Metropolitan Authority would be composed of mayors of the component cities and municipalities. He affirmed that the first part of Section 6 would consist of the aggroupment of municipalities and

cities provided by law, and the second part would provide for voluntary mode of association among the local government units for their own benefit.

On the relation between Sections 6 and 7, Mr. Ople pointed out that Section 7 provides for regional development councils composed of local government officials, which was introduced in the context of the existing regional development bodies of the National Economic and Development Authority which allocate budgets to provinces and municipalities, but the proposed regional development councils would be a planning and recommendatory body under the NEDA.

### **MR. SARMIENTO'S PROPOSED AMENDMENT**

#### **TO THE AMENDMENT**

Mr. Sarmiento proposed, after the phrase "subject to a plebiscite", to add the phrase IN THE POLITICAL UNIT OR UNITS DIRECTLY AFFECTED, in reply to which, Mr. Nollado stated that it would be superfluous because it was already covered by the phrase "as set forth in Section 11 hereof", which Section 11 provides that the plebiscite shall be in the political unit or units directly affected.

In view thereof, Mr. Sarmiento withdrew his proposed amendment.

On Mr. Sarmiento's proposed amendment to insert after "executive" the word DEPARTMENT, Mr. Nollado stated that the provision states "local executives" which already differentiates them from legislative assemblies.

On the proposal to delete the word "basic" before "autonomy", Mr. Ople stressed that the word "basic" would prevent possible undue encroachment of the Metropolitan Authority on the autonomous powers of the component cities and municipalities.

Mr. Sarmiento did not insist on his proposed amendment.

### **MR. DAVIDE'S PROPOSED AMENDMENT TO THE AMENDMENT**

Mr. Davide proposed to amend the second sentence to read: THE COMPONENT UNITS SHALL RETAIN THEIR POWERS, FUNCTIONS, AND PREROGATIVES AS REGULAR POLITICAL UNITS.

Mr. Nollado opined that the original wording would be more emphatic, to which Mr. Davide replied that his proposal would cover the functions not included in the words "executive" and "legislative".

Mr. Ople insisted on his original amendment, and the Sponsor did not accept Mr. Davide's proposed amendment to the amendment, stating that basic autonomy could be considered substantially the same as the words "as regularly organized or established".

### **QUESTION OF PRIVILEGE OF MR. MONSOD**

At this juncture, Mr. Monsod rose on a question of privilege relative to an accusation in the previous session that he had made a misrepresentation and requested for an immediate resolution of the issue. He then read a portion of the Journal of the previous session on the matter.

Thereafter, Mr. Monsod read from the Minutes of the Caucus which quoted him as saying:

"Secondly, I want to tell you that this morning, I think, Minister Jose Concepcion has been quoted or has been mentioned in the ad. I talked to Minister Jose Concepcion this morning, and he said he is against constitutionalizing permanent and absolute protectionism in the Constitution because that is bad for Philippine

industry and he is in favor of the program. He just wants to give time for the industry to recover which is what we are putting here, when we say that they should be protected from unfair competition. It would be unfair at this time if they are not given protection when they are recovering from the economic debacle."

To further clarify matters and also for the record, Mr. Monsod read a letter from Minister Jose Concepcion, Jr. Dated August 16, 1986, to wit:

"Dear Chris,

I refer to our conversation yesterday regarding the ad by the Coalition addressed to the ConCom.

This will confirm my statement to you that I did not see the ad before it was published.

I am in favor of a statement incorporating in the Constitution the responsibility of the State in promoting industrialization of the economy.

I am also in favor of incorporating a provision that promotes the viability and growth of domestic industries. I do not subscribe to an indefinite protection of industries to be incorporated in the Constitution. We should leave to the Legislature the responsibility of enacting the necessary legislation given the situation and circumstances. A direct statement in our Constitution regarding protectionism may not provide us with the necessary flexibility as we pursue our programme to gain market access for our exports during this period of reconstruction where we do not have the purchasing power to buy the products to be produced by the domestic market. It may invite unnecessary retaliation. Besides, Philippine industry are in agreement that our final objective is to look at the world as our market and given an increased purchasing power to our people, our large domestic and ASEAN markets, and the Philippine entrepreneurial drive, we shall be another Japan. This strategy requires reciprocity.

We also agreed that Filipino enterprises are entitled to protection such as against dumping, when they are in their infant stage and when they need temporary relief from recession until they reach normal capacity utilization such as the present time.

I hope this serves as a useful clarification.

Regards,

Jose Concepcion, Jr."

Mr. Villacorta, in response, manifested that he had requested Mr. Villegas for a more civil manner of resolving this question possibly in a caucus involving a small number of Commissioners. He stated that he was caught by surprise and was not prepared to answer Mr. Monsod, adding that he had hoped that the matter could be resolved. Thereafter, he requested for a suspension of the session.

### **SUSPENSION OF SESSION**

At this juncture, the Chair suspended the session.

It was 12:14 p.m.

### **RESUMPTION OF SESSION**

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

### **REMARKS OF MR. VILLACORTA**

Mr. Villacorta explained that his statement in the previous session was based on the understanding that Minister Concepcion's view was contained in an advertisement and considering that the matter had already been clarified, he was withdrawing said statement for the sake of unity in the Constitutional Commission.

He further stated that there was no intention to impute deception to Mr. Monsod and he apologized for having attributed to him the misinformation.

### **REMARKS OF MR. MONSOD**

Mr. Monsod thanked Mr. Villacorta for his graciousness and in the spirit of unity and goodwill of the Commission, he accepted Mr. Villacorta's statement.

### **REMARK OF MR. UKA**

Mr. Uka thanked Mr. Monsod for living up to his name "Christian" which means "forgiveness".

### **RESERVATION OF MESSRS. SARMIENTO AND GARCIA**

Mr. Sarmiento, as well as Mr. Garcia, made reservations to file their motions for reconsideration with respect to some items in Section 1 of the proposed Article on National Economy and Patrimony.

### **MOTION TO STRIKE OFF THE RECORD**

On motion of Mr. Davide, there being no objection, the Body approved to strike off the Record the previous day's manifestations of Messrs. Villacorta and Monsod, which were made in relation to the subject of the questions of privilege.

### **AMENDMENT OF MR. OPLE**

As proposed by Mr. Ople and accepted by the Sponsor, the Body approved the transfer of Mr. Ople's amendment to a separate section immediately preceding Section 6 of the draft Article.

### **AMENDMENT OF MR. COLAYCO**

As proposed by Mr. Colayco and accepted by the Sponsor, the Body approved the amendment to reword the last sentence of Mr. Ople's amendment which would read as follows: THE JURISDICTION OF THE METROPOLITAN AUTHORITY THAT WILL THERE BY BE CREATED SHALL BE LIMITED TO BASIC SERVICES REQUIRING COORDINATION.

### **APPROVAL OF MR. OPLE'S AMENDMENT, AS AMENDED**

Submitted to a vote, and with 31 Members voting in favor and none against, the Body approved Mr. Ople's amendment, as amended.

### **MANIFESTATION OF MR. OPLE**

Mr. Ople manifested for the record that the other authors of the amendment were Messrs. Nollado, Calderon, Tingson, Rosales, Alonto, de Castro, Monsod, Davide, Bennagen, Rigos, Regalado, Jamir, Mrs. Muñoz Palma, Ms. Aquino and Messrs. Bernas, Colayco and Rodrigo.

### **SUSPENSION OF SESSION**

On motion of Mr. Rama, the Chair suspended the session.

It was 12:50 p.m.

### **RESUMPTION OF SESSION**

At 1:52 p.m., the session was resumed.

### **AMENDMENT OF MR. MAAMBONG**

Upon resumption, Mr. Maambong proposed on Section 1, line 8, to substitute "barrios" with BARANGAYS.

Mr. Nollado did not accept the proposal.

Mr. Maambong explained that 1) the word barangay has historical significance since it was derived from balanghais which was the name of the boat used by the original Philippine migrants from Indonesia and Malaysia; 2) laws like PD No. 1508 and the Local Government Code as well as textbooks and commentaries on these laws used the word barangay; and 3) foreign publications refer to barangays and not to barrios in reporting on political news about the country.

Reacting thereto, Mr. Nollado stated that on the basis of consultations he had with several persons in different parts of the country, he found out that: 1) the word barrio appears in old titles, surveys, government files and documents from the Spanish regime up to the present; 2) many schools all over the country still carry the term barrio, 3) the League of Governors and City Mayors unanimously decided to adopt barrio; and 4) the Declaration of Principles and the Article on Local Government of the 1973 Constitution and even the Freedom Constitution use the same term.

Responding to Mr. Maambong's request to expound on the historical significance of barangay, Mr. Bennagen affirmed the accuracy of Mr. Maambong's historical dissertation on the origin of the term, noting however, that Mr. Nollado raised an entirely different issue.

Mr. de los Reyes pointed out that within the poblacion itself are several barangays which should have headmen to ensure peace and order, help in the collection of taxes and perform other duties.

Mr. Rodrigo remarked that the political subdivisions are provinces, municipalities, barrios and sitios.

Submitted to a vote and with 14 Members voting in favor and 12 against, the amendment was approved by the Body.

### **PROPOSED AMENDMENT OF MR. RODRIGO**

Mr. Rodrigo proposed, on Section 2, line 13, to place a period (.) after "structure" and then to delete the phrase "with an effective system of recall."

Mr. Rodrigo explained that the term of office of local officials would only be three years and, if they would be recalled in their midterm, the remainder of such term would be too short for the new elective officials, besides, a recall would require an election which is expensive and divisive.

On Mr. Suarez' contention that said phrase, which is also contained in Section 2, Article XI of the 1973 Constitution and the Local Government Code, should be retained as a safeguard against local public officials who become abusive immediately after assuming office, Mr. Rodrigo replied that the evil that the system of recall

would produce would be greater than the benefit that could accrue from it because, once used, it could be abused. He also pointed out that under the 1973 Constitution, the term of elective officials was four years but in the proposed new Constitution, it would only be three years.

On Mr. Suarez' query whether he would have the same stand if the Committee on the Legislative would give the local officials a term of four years, Mr. Rodrigo stated that the question is hypothetical although his objection would be less.

At this juncture, Mr. de los Reyes stressed that the provision should be retained because even one month would be long enough for an abusive public official to stay in office.

Thereafter, Mr. Rodrigo's proposal was submitted to a vote and with 7 Members voting in favor and 13 against, the same was lost.

### **PROPOSED AMENDMENT OF MR. RIGOS JOINTLY WITH MR. FOZ**

Mr. Foz proposed, on Section 2, line 17, to insert the phrase INCLUDING A PROVISION AGAINST POLITICAL DYNASTIES after "officials".

Mr. Nollado accepted the proposal.

On Mr. Natividad's query as to the meaning of "political dynasties", Mr. Foz explained that the basic premise of the proposal is that nobody is indispensable as far as public service is concerned and that the prohibition would prevent one family from controlling political power.

On the parameters that could serve as guidelines for Congress when it enacts the implementing legislation, Mr. Foz stated that it would be up to Congress to decide how such a prohibition should be written into the Local Government Code.

On Mr. Natividad's query on "political dynasties", Mr. Nollado pointed out that he filed a similar resolution with the Committee on Preamble, National Territory and Declaration of Principles extending the prohibition to the third degree of consanguinity or affinity so that a relative of an official may run but not immediately after the incumbency of the latter. He explained that the resolution would curb the possibility that such relative would take advantage of the position of the incumbent.

In this connection, Mr. Monsod also stated that the proposed amendment would deprive the people of their right to choose their local officials, in reply to which Mr. Nollado opined that on the other hand, it would give wider opportunity to other deserving candidates.

Mr. Monsod noted the objective of making elective office accessible to all, whether rich or poor, therefore, too much restriction and disqualification would be undemocratic.

In reply to Mr. Suarez' query, Mr. Nollado pointed out that a political dynasty comes into being when a governor, for instance, allows his son to run for election and succeeds him. However, he opined that the case of Marcos, who had a wife who was a Governor of Metro Manila, a son who was Governor of Ilocos Norte, and a daughter who was a Member of the Batasan, was not a case of political dynasty but of nepotism.

Thereafter, Mr. Foz reiterated his proposed amendment on Section 2, page 1, line 17 to insert the phrase INCLUDING A PROVISION AGAINST POLITICAL DYNASTIES after the word "officials".

Submitted to a vote and with 5 Members voting in favor, 19 against and 2 abstention, the proposed amendment was lost.

### **AMENDMENT OF MR. DAVIDE**

As proposed by Mr. Davide and accepted by the Sponsor, the Body approved, on Section 2, page 1, line 13, after the word "structure", to insert the phrase INSTITUTED THROUGH A SYSTEM OF DECENTRALIZATION and a comma (,) after it.

Mr. Davide also proposed on Section 2, page 1, line 13, to delete the article "an" and to change "system of" to MECHANISM FOR; and on line 14, after the comma (,) after "recall", to insert the words INITIATIVE AND REFERENDUM and a comma (,), so that lines 13 and 14 would read: "able local government structure instituted through a system of decentralization; with effective MECHANISM FOR recall, INITIATIVE AND REFERENDUM, allocate among the different local government units".

He explained that the system of initiative and referendum should not only be applicable to Congress but also to local legislative assemblies, which should be incorporated in the Local Government Code that would be enacted by Congress. He affirmed that the system of initiative and referendum applicable to Congress would be the same for local legislative bodies.

The Sponsor accepted the proposed amendment.

### **INQUIRY OF MR. SARMIENTO**

In reply to Mr. Sarmiento's query on whether the proposed amendment would weaken the local governments, Mr. Davide opined that, on the contrary, with : the assurance that there would be responsive and accountable local elective officials, it would strengthen the democratization of the government.

He also stated that his amendment would provide a vehicle by which sectoral groups could pursue the objectives of people's organizations or people power. He maintained that giving more strength to the people would not weaken the government because, after all, in a republican government, sovereignty resides in the people and all government authority emanates from them.

### **INQUIRY OF MR. RODRIGO**

In reply to Mr. Rodrigo's query on whether with the amendment it would be mandatory for Congress to legislate a system of recall, initiative or referendum, Mr. Davide stated that under the Article on the legislative, Congress would be mandated to provide for the mechanics of initiative and referendum, hence the amendment would give Congress the authority and power to include it in the Local Government Code.

### **INQUIRY OF MR. MAAMBONG**

Furthermore, in reply to Mr. Maambong's query on whether the mechanism for recall, initiative and referendum would be applicable to all local government units, Mr. Davide stated that it would depend upon Congress, although he believed that there would be no harm to apply it even to barangays. He explained that Congress is already mandated to enact a Local Government Code and although it would depend on Congress whether it would include the mechanisms, he opined that Congress should include such mechanisms.

### **APPROVAL OF MR. DAVIDE'S AMENDMENT**

Submitted to a vote and with 17 Members voting in favor, 4 against and 2 abstention, the amendment was approved by the Body.

### **PROPOSED AMENDMENT OF MR. DE CASTRO**

Mr. de Castro proposed on Section 2, page 1, line 16, to delete the word "term" because the term of the local officials was already fixed for three years in the Article on the Executive.

The Sponsor did not accept the proposed amendment on the ground that "term" would cover not only elective but also appointive local government officials, such as the provincial assessor, provincial treasurer, city assessor and other administrative officials. He clarified, however, that they would not necessarily be appointed by the local officials themselves but by the appointing authority to be specified by the Local Government Code.

In view thereof, Mr. de Castro withdrew his proposal.

### **INQUIRY OF MR. RODRIGO**

In reply to Mr. Rodrigo's query, Mr. Nollado affirmed that all changes in the form of local governments which Congress may enact would not be effective unless submitted and approved in a national plebiscite, without prejudice to the provisions on the autonomous regions.

### **INQUIRY OF MR. MAAMBONG**

Furthermore, in reply to Mr. Maambong's observation that under the existing Local Government Code, changes in boundaries or mergers of barangays are not done by Congress but by municipal ordinance or by resolution of the Sangguniang Panlalawigan, Mr. Nollado replied that the provision speaks of form of local governments and boundaries.

Mr. Maambong observed that the Local Government Code, not Congress, through the ordinance of the Sangguniang Panlungsod of a city or the Sangguniang Panlalawigan of a province can create, abolish or merge barangays. He expressed his apprehension that once the Local Government Code is done away with, barangays can no longer be created, merged, or abolished unless a law is passed by Congress.

Replying thereto, Mr. Nollado directed attention to Section 11 which would cover the situation adverted to. He stressed that the last sentence deals with existing form of local governments with respect to boundaries.

Reiterating his view, Mr. Maambong opined that under the last sentence of Section 2, neither the Sangguniang Panlungsod nor the Sangguniang Panlalawigan could effect any change in barangays as it does not specify the local government unit affected and that such change would only take effect upon ratification by a majority of the votes cast in a plebiscite called for that purpose.

Mr. Nollado clarified that the provision referred to in the Local Government Code would still exist in accordance with the criteria established therein but subject to the approval of the majority of the votes cast in a plebiscite. He affirmed that barangays can still be created, abolished or merged through an ordinance passed by the Sangguniang Panlalawigan or Sangguniang Panlungsod subject to the provisions of Section 11.

### **INQUIRY OF MR. OPLE**

On the query of Mr. Ople whether there had been any instance since 1973 when the form of local government was changed and which change required a national plebiscite, Mr. Nollado observed that President Marcos interpreted the provision in a different way. He recalled that Presidential Decree No. 824 issued by the former President abolished the legislative councils in the constituent units of Metro Manila and that there was a referendum within the metropolitan area for this purpose. He stated that Mr. Marcos, in consultation with the Minister of Justice, declared that the existing structure referred only to the City of Manila and did not refer to all other political units.

Mr. Nollado further stated that he could not recall of any other change in the form of local government outside of Metro Manila which required a national plebiscite. He stressed that should Congress abolish the municipal councils in all municipalities, ratification would be by the entire electorate inasmuch as it affects the entire country.

On whether the lawmaking power of Congress would be subject to restraint in view of a Constitutional provision that if the Local Government Code is amended to a substantial degree, the law shall be submitted to a nationwide plebiscite, Mr. Nollado informed that the Committee would entertain amendments on the matter.

Mr. Nollado observed that Mr. Marcos placed this provision in the Constitution so as to prevent anyone from changing the form of government favorable to him.

Thereafter, Mr. Ople proposed to delete the provision inasmuch as it vitiates the lawmaking power of Congress, which proposal was accepted by Mr. Nollado.

Mr. Davide objected to Mr. Ople's amendment by raising the question of whether the deletion of the last sentence would enable Congress to provide a parliamentary form of government for the local government units. He recalled that the consensus in the Commission adopted a presidential system after which the local government units are patterned, in reply to which, Mr. Ople stated that the Body should be able to trust Congress on this matter.

Mr. Davide stressed that Congress may adopt another type of government for the local government units which would be against the presidential form, to which Mr. Nollado responded by citing Section 2 which mandates Congress to enact a Local Government Code which shall provide for a more responsive and accountable local government structure. He argued that even under this authority, Congress could also adopt a parliamentary system if Mr. Davide's argument is followed.

Reacting thereto, Mr. Davide stated that in this case, there would be a presidential question of whether to adopt a parliamentary system of government for the local government units which the Body had to decide. Mr. Nollado, denying that this is a prejudicial question, opined that the Body would be tying the hands of Congress in determining the form of government that should be provided for in the Local Government Code. He underscored that Congress should be guided by a high sense of patriotism and knowledgeability in determining the structure of local government units. He added that pending the enactment of a new Local Government Code, Batas Pambansa Blg. 337 (Local Government Code) would be enforced until repealed by Congress.

Mr. Davide opined that if the new Code would adopt a system other than that mandated in the Local Government Code, a plebiscite would be necessary. He stressed the need to retain the last sentence.

At this juncture, Mr. Ople restated his amendment to delete the sentence "No change in the existing form of local government shall take effect until ratified by a majority of the votes cast in a plebiscite called for the purpose."

Mr. Nollado, arguing in favor of the amendment, noted that if the Body does not delete the sentence, Congress cannot even change the form of government embodied in the Local Government Code.

### **REMARKS OF MR. FOZ**

Mr. Foz observed that the presidential and parliamentary forms of government are not applicable to the local government system as had been settled by jurisprudence. He noted that the local government setup mixes both systems with the provisional governors sitting in the provincial board which is the legislative branch of the provincial government, which practice is followed in the city. He stressed that the form of government which may be involved in the provision, has something to do with whether it is the mayor-council type or manager-council

type.

### **VOTING ON MR. OPLE'S AMENDMENT**

Thereafter, submitted to a vote, and with 21 Members voting in favor and 4 against, the proposed amendment of Mr. Ople was approved by the Body.

At this juncture, Mr. Nollado restated Section 1, as amended, to wit:

THE TERRITORIAL AND POLITICAL SUBDIVISIONS OF THE REPUBLIC OF THE PHILIPPINES ARE THE PROVINCES, CITIES, MUNICIPALITIES AND BARANGAYS. THERE SHALL BE AUTONOMOUS REGIONS IN MUSLIM MINDANAO AND THE CORDILLERAS AS HEREINAFTER PROVIDED.

### **INQUIRY OF MR. MAAMBONG**

On Mr. Maambong's query, Mr. Nollado maintained that a subprovince which is an extension of the mother province is not acknowledged in Section 1 as a separate political unit. Moreover, he stated that he would have no objection to Mr. Maambong's suggestion to formulate another provision to this effect to be considered by the Committee on Transitory Provisions or the Committee on the Legislative.

### **VOTING ON SECTION 1**

Thereafter, Section 1 was submitted to a vote, and with 29 Members voting in favor and none against, the same was approved by the Body.

### **VOTING ON SECTION 2**

Mr. Nollado restated Section 2, as amended, to read as follows:

THE CONGRESS SHALL ENACT A LOCAL GOVERNMENT CODE WHICH SHALL PROVIDE FOR A MORE RESPONSIVE AND ACCOUNTABLE LOCAL GOVERNMENT STRUCTURE, INSTITUTED THROUGH A SYSTEM OF DECENTRALIZATION WITH EFFECTIVE MECHANISM FOR RECALL, INITIATIVE AND REFERENDUM, ALLOCATE AMONG THE DIFFERENT LOCAL GOVERNMENT UNITS THEIR POWERS, RESPONSIBILITIES AND RESOURCES, AND PROVIDE FOR THE QUALIFICATIONS, ELECTION, APPOINTMENT AND REMOVAL, TERM, SALARIES, POWERS AND FUNCTIONS AND DUTIES OF LOCAL OFFICIALS, AND ALL OTHER MATTERS RELATING TO THE ORGANIZATION AND OPERATION OF THE LOCAL UNITS.

Submitted to a vote and with 29 Members voting in favor and none against, Section 2 was approved by the Body.

### **MANIFESTATION OF MR. MAAMBONG**

At this juncture, Mr. Maambong informed that he would prefer to present his amendment to Section 3 later inasmuch as the Commission does not have a full complement of Members at the moment and in view of the fact that the amendment would involve vital matters — to wit, the status of highly urbanized cities and the right of suffrage of the voters in highly urbanized cities He reserved the right to present his amendment later.

### **INQUIRY OF MR. COLAYCO**

On Section 3, page 2, line 2, Mr. Colayco inquired on what would be “reasonable standards” in the phrase “the highly urbanized cities as determined by reasonable standards”, to which Mr. Nollado responded that these are provided in the Local Government Code, independent of the standards mentioned by Mr. Maambong. He stated

that Congress would determine these standards.

On Section 3, the same page, line 4, Mr. Colayco inquired whether "city" would refer to highly urbanized cities. Mr. Nollado stated that it would refer to a city, highly urbanized or not, as long as it is a component part of the province. Mr. Nollado also clarified that Metro Manila is excluded from the provision.

On the observation that no distinction to this effect could be gleaned from the provision, Mr. Rama as proponent of the proposal, suggested that Mr. Colayco introduce the necessary amendment.

Mr. Rama explained that the rationale for the sentence is that in the past regime the warlords were able to disenfranchise voters mostly from the city and, thus, were able to control the provinces and entrench themselves. He observed that the disenfranchised city voters are more informed and less vulnerable to the manipulations and intimidations of the warlords. He stressed that this is an anti-warlordism provision.

### **REMARKS OF MR. MAAMBONG**

As a follow-up to Mr. Colayco's inquiry, Mr. Maambong informed that under the Local Government Code, Section 165 classifies cities into two kinds — component and highly urbanized. He explained that under Section 166 (1) highly urbanized cities are those cities with a minimum population of 150,000 certified by the National Census and Statistics Office (NCSO) and with a latest annual income of at least P30 million, as certified by the Minister of Finance; and (2) cities which do not meet the above requirements shall be considered component cities of the province in which they are geographically located. He stated that under Section 167, a component city shall become a highly urbanized city if it meets the criteria specified in the preceding Section.

Furthermore, Mr. Maambong observed that there are highly urbanized cities whose voters are not allowed to vote for provincial elective officials, in the same way that voters in the province are not allowed to vote for city officials in highly urbanized cities. He added that this would be the subject of his amendment.

### **INQUIRY OF MR. MONSOD**

Mr. Monsod observed that the rationale is to prevent warlords in the provinces from dominating the countryside. He then inquired whether it would be possible to have warlords in the cities so that the cities will then dominate the countryside, to which Mr. Rama replied that most of the city dwellers come from the municipalities on account of their work and that it is convenient for them to stay and vote in the city. With respect to gerrymandering, he stated that this had already been done precisely to disenfranchise the city voters, for which reason, it should be corrected.

Mr. Monsod stated that he found it hard to conceptualize the principle that a group of voters may determine the government of the province when there is really no jurisdiction in the province. He cited the parallel provision in the Omnibus Election Code which allowed transient workers to vote in their place of work. He noted that in trying to put a negative constitutional provision to solve the warlord system, the Body may be opening up another avenue to the injustice of people being governed by those whom they did not vote into office.

At this juncture, the Chair reminded the Body that amendments to Section 3 had been reserved for the next session day and that any additional manifestation on the matter could be made after the amendments of Messrs. Maambong and Colayco shall have been presented.

### PROPOSED AMENDMENTS OF MR. DAVIDE

On Section 4, Mr. Davide proposed the deletion of the word "sectoral" on line 8 and to insert between the words "representation" and "as" the words FROM THE PARTY LIST; and on line 9, after the word "law", to add the words IN ACCORDANCE WITH THE STANDARD SET FORTH IN SECTION \_\_ OF ARTICLE \_\_ OF THE CONSTITUTION. He stated that the Article he was referring to is the Article on the Legislative Department and he noted that the Committee would allow in the local legislative bodies sectoral representation under the party list system as mandated in Section 5 of the proposed Article on the Legislative.

In reply to Mr. Monsod's query, Mr. Nollado stated that the legislative body at the provincial and municipal levels would be composed of eight members.

Mr. Monsod raised the question as to whether proportional representation or the party list system could apply to small bodies composed of eight members. He pointed out that there would be no assurance that a slate of eight members running for the municipal council would all be elected unlike the system adopted in the Article on the Legislative which provides a limit.

Mr. Nollado stated that the Committee would adopt Mr. Monsod's reasons for rejecting Mr. Davide's proposed amendments.

Ms. Aquino, in objecting to the proposed amendment, stated that the imperative of democratizing the political processes in the local governments by way of sectoral representation is more pressing than it would be in the national government. She pointed out that during the public hearings, there was an overwhelming clamor for sectoral representation in the local government because the people believed that the local governments could better respond to their needs. She likewise expressed serious doubts on the feasibility of the party system in the local governments.

Mr. Monsod stated that the issue was on the eight-man council where there would be two or three reserved seats but under the proposed amendment, universal and equal suffrage would only be applicable to five seats out of eight. He pointed out that this would be a situation where some people belonging to favored sectors would have two votes and only one for the rest. He questioned the propriety of providing an exception.

In reply to Mr. Sarmiento's inquiry as to whether the sectors referred to in the proposed Article on the Legislative would be carried over to the proposed Article on Local Government, Mr. Nollado admitted that the Committee did not discuss sectoral representation during its meeting.

Mr. Bennagen stated that in view of the wide variations of sectors in the regions, it would be very hard to specify what sectors would be represented in the local councils.

Thereupon, Mr. Sarmiento endorsed Section 4 on sectoral representation stating that it would bolster the claim to people power and supplement the mechanisms of recall, initiative and referendum.

Thereafter, Mr. Davide withdrew his proposed amendment.

### PROPOSED AMENDMENT OF MR. MONSOD

Mr. Monsod proposed the deletion of the entire Section 4, explaining that this section would be difficult to operationalize and is against the system of universal and equal suffrage.

The Committee did not accept the proposed amendment and asked that it be submitted to the Body.

Speaking in support of Mr. Monsod's proposed amendment, Mr. Colayco stated that local legislative bodies would

only deal with local problems and that the sectoral representatives would not be of any special help in protecting the rights of the sectors they would represent.

Objecting to Mr. Monsod's proposed amendment, Ms. Aquino stressed the need to respect the idiosyncracies of a specific local government and to consider that there are some critical problems that could be best addressed by a definitive configuration in their legislative assembly. She cited Central Luzon where the critical mass belongs to the peasant sector which would need representation in the legislative assembly.

Mr. Ople likewise objected to Mr. Monsod's proposed amendment, explaining that this is already an earned right and a working principle. He informed that at present, in all councils, be it municipal, provincial or city, the farmers, workers and the youth are already represented. He stated that the deletion of sectoral representation in local bodies is a step backwards from what these mass organizations already enjoy under the old Constitution. He further stated that he would have no objection to a review of the nature of sectoral representation that would be considered by Congress but felt the need to preserve the principle of sectoral representation, which experience had shown to be useful and desirable for a community.

Mr. Colayco noted that the issue would be on the reserved seats. He maintained that sectoral representatives could fight it out on equal basis because every body knows everybody else in a municipality. He argued that the idea of sectoral representation would be valid in the provincial and national levels because of their big disadvantage but in a municipal level, they would not need protection. He further pointed out that local councils would be dealing with local matters and that personal rights as a social member would not be involved in local legislation.

Mr. Ople pointed out that there is a range of legislative services much wider than what had been suggested which are presently provided by the local legislative assemblies. He pointed out that there are social and economic development programs covered by appropriate municipal legislations and it is in this respect that sectoral representation becomes very important.

In reply to Mr. Bengzon's query, Mr. Nollado affirmed that the words "legislative bodies of local governments" would refer to the governor, the vice-governor, the members of the provincial board, the mayor, the vice-mayor and the members of the municipal council.

Mr. Sarmiento stated that he had been to a number of places and he observed that many members of these local legislative bodies belong to the middle and upper class of society. He stated that he supports the marginal sectors' representation in the local legislative bodies so that their needs and grievances would have a chance to be heard.

### **VOTING ON MR. MONSOD'S PROPOSED AMENDMENT**

Submitted to a vote and with 5 Members voting in favor and 19 Members against, the Chair declared Mr. Monsod's proposed amendment lost.

### **AMENDMENT OF MR. DAVIDE**

Mr. Davide proposed the insertion of a new section immediately after Section 4 which would read:

THE TERM OF OFFICE OF ELECTIVE LOCAL OFFICIALS, EXCEPT BARANGAY OFFICIALS, WHICH SHALL BE DETERMINED BY LAW, SHALL BE THREE YEARS, AND NO SUCH OFFICIAL SHALL SERVE FOR MORE THAN THREE CONSECUTIVE TERMS. VOLUNTARY RENUNCIATION OF THE OFFICE FOR ANY LENGTH OF TIME SHALL NOT BE CONSIDERED AS AN INTERRUPTION IN THE CONTINUITY OF HIS SERVICE FOR THE FULL TERM FOR WHICH HE WAS ELECTED.

Mr. Davide explained that his proposed amendment is in accordance with the decision of the Commission on the terms of local officials.

On Mr. Nollado's query, Mr. Davide stated that the term of office of barangay officials would be determined by law.

Thereupon, the Committee accepted Mr. Davide's proposed amendment.

Mr. Maambong proposed that the amendment just accepted should be made the first sentence of Section 4, to which Mr. Davide agreed.

The Committee likewise accepted Mr. Maambong's amendment to the amendment.

In reply to Mr. Rodrigo's query as to whether the prohibition to serve for more than three consecutive terms would apply to barangay officials, Mr. Davide explained that the decision of the Body on the terms of officials did not include barangay officials because it was then the stand of the Committee Chairman that their term shall be determined by law so that it is also the law that would determine whether the restriction on the number of reelections would be included in the Local Government Code.

At this juncture, Mr. Ople suggested that the Committee find an appropriate place in the Article for his amendment which was approved by the Committee.

There being no further objection, the Body approved Mr. Davide's proposed amendment.

### **CONSIDERATION OF RESOLUTION NO. 541**

At this juncture, the Body proceeded to the consideration of Resolution No. 541, to wit:

A RESOLUTION EXPRESSING THE IMPERATIVE OF PROTECTING THE DIGNITY AND INTEGRITY OF THE COMMISSION AGAINST UNDUE INTERFERENCE BY LOBBYISTS WITHIN THE SESSION HALL

WHEREAS, during the suspension of the plenary session of the Commission in the morning of Friday, 15 August 1986, and while the Commissioners discussed their proposed amendments to the proposed Article on National Economy and Patrimony with the Members of the Committee on National Economy and Patrimony, lobbyists rushed into the session hall and approached Commissioners and Committee Members with the intention of presenting their own amendments; one of the lobbyists, who was insistent in having his own or his group's proposals incorporated into Section 1 of the proposed Article publicly and openly insulted, and his brother challenged Commissioner Christian Monsod; unfortunately, however, one newspaper erroneously made it appear that it was Commissioner Monsod who provoked the altercation;

WHEREAS, the Commission had taken all steps to hear the views of all sectors; nationwide public hearings were conducted; the different Committees conducted its own hearings; and the Commission and its Members have received, and continue to receive, proposals and recommendations from individuals, groups and associations; with utmost patience the Commissioners listened to all views;

WHEREAS, the Commission, as a constituent assembly, and its members are entitled to respect; the session hall of the Commission is not any ordinary place for any person or group of persons to freely use to disrupt or interfere with the delicate work of the Commissioners;

WHEREAS, the incident above described constituted an assault on the dignity of the Commission;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved, by the Commission to direct the Sergeant-at-Arms to always maintain order and security within the session hall and prevent the public from

lobbying inside the session hall, or in any manner disrupting the Commissioners thereat.

RESOLVED, FURTHER, to condemn as undue and unwarranted interference of the proceedings of the Commission the action of the lobbyists involved in the incident in question.

Mr. Laurel sponsored the Resolution.

He recalled that during the previous session, while the session was suspended, there was an incident which occurred before the Members of the Body wherein some lobbyists committed disorderly behavior which is improper for any outsider or non-Member to do. He stressed that a suspension of session is still part of the proceedings and if there is anyone who would want to commit disorderly behavior within the Chamber, it must be performed by a Member thereof.

He opined that the lobbyists should have been ordered out of the floor immediately but since the incident already occurred, those who were guilty thereof should be forgiven and steps should be taken to ensure that similar incidents would never happen again.

Mr. Foz manifested support for the Resolution but appealed to the Members not to give any impression that the Body is not open to suggestions from the public. He stated that the Members have, in fact, gone through a series of public consultations precisely to hear the views of people from as many sectors and in as many places as possible. He stressed that although the Members are not bound by such views, the Body has to consider them in making decisions on the specific provisions to be incorporated in the new Constitution.

The Chair affirmed that the Body had welcomed and entertained individuals and organizations and had never intended nor had ever denied anyone from expressing his views but such views must be expressed outside the Session Hall.

Mr. Foz explained that he was referring to another incident which occurred in the South Conference Room where a public official was embarrassed because one of the Members practically stopped him from delivering a statement on a different issue. He then reiterated his appeal to the Members to refrain from taking any step that would give an impression that the Body does not welcome views from the public.

In reply, Mr. Laurel stressed that the Resolution is only aimed at preserving the dignity and integrity of the proceedings of the Commission.

Mr. Suarez requested for the re-reading of the resolutory clause of the Resolution, after which he expressed his support therefor.

### **APPROVAL OF THE RESOLUTION**

Thereafter, submitted to a vote, and there being no objection, the Chair declared Proposed Resolution No. 541 unanimously approved by the Body.

### **ADJOURNMENT OF SESSION**

Thereafter, on motion of Mr. Rama, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of Monday, August 18, 1986.

It was 4:11 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA

President

Approved on August 18, 1986

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